

107th CONGRESS, 1ST SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

IN THE MATTER OF REPRESENTATIVE EARL F. HILLIARD

MAY 17, 2001

Mr. PORTMAN from the Investigative Subcommittee submitted the following

REPORT

To the Committee on Standards of Official Conduct.

I. EXECUTIVE SUMMARY

On September 22, 1999, the Committee on Standards of Official Conduct established an Investigative Subcommittee in the Matter of Representative Earl F. Hilliard. The Investigative Subcommittee's investigation regarding Representative Hilliard encompassed certain matters that had come to the attention of the Committee on Standards of Official Conduct following publication of certain newspaper reports. These matters had been the subject of a preliminary inquiry by the Chairman and Ranking Minority Member of the Committee on Standards of Official Conduct prior to the establishment of the Investigative Subcommittee. In the course of the Investigative Subcommittee's investigation of Representative Hilliard, the scope of its jurisdiction was expanded one time to encompass additional matters that came to the attention of the Investigative Subcommittee during its inquiry.

At the conclusion of the investigation, the Investigative Subcommittee found substantial reason to believe that Representative Hilliard committed multiple violations of House Rules within the Committee's jurisdiction. The Investigative Subcommittee unanimously adopted a Statement of Alleged Violation on April 4, 2001, and Representative Hilliard admitted to the violations found by the Investigative Subcommittee on April 5, 2001. *Exhibits 1 and 2.* The Statement of Alleged Violation delineates those matters for which the Investigative Subcommittee found substantial reason to believe that Representative Hilliard violated a law, rule, regulation or other standard of conduct applicable to a Member of Congress. A summary and explanation of the Investigative Subcommittee's findings with respect to these matters is set forth below. With respect to the matters within the scope of the Investigative Subcommittee's jurisdiction that are not addressed in the Statement of Alleged Violation, the Investigative Subcommittee did not find substantial reason to believe that Representative Hilliard violated any law, rule, regulation or other standard of conduct applicable to Representative Hilliard. A summary of the basis for the Investigative Subcommittee's findings with respect to those matters is also set forth below.

The Statement of Alleged Violation provides as follows:

Statement Of Alleged Violation

SUMMARY OF RELEVANT STANDARDS OF CONDUCT

At all times relevant to the violations hereafter alleged (except as otherwise noted), the pertinent provisions of law and House Rules are summarized as follows:

Clause 6 of former House Rule 43 (now House Rule 23) stated, *inter alia*, that "[a] Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes."

Clause 1 of former House Rule 43 (now House Rule 23) stated that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

ALLEGED VIOLATIONS

For each of the following alleged violations, the Investigative Subcommittee has determined there is "substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred." See Rule 20(e), Rules of the Committee on Standards of Official Conduct.

At all times relevant to this Statement of Alleged Violation, Earl F. Hilliard was a Member of the United States House of Representatives representing the Seventh District of Alabama. References to the Hilliard for Congress Campaign ("HFCC") refer to the authorized committee of Representative Earl F. Hilliard, i.e. the political committee authorized by Representative Hilliard under 2 U.S.C. § 432(e)(1) to receive contributions or make expenditures on behalf of Representative Hilliard. See 2 U.S.C. § 431(6).

Count I: Pattern And Practice Of Conduct In Violation of Former House Rule 43, Clause 6 And Former House Rule 43, Clause 1.

Circumstances Relating To Alleged Violation: Loans Of Campaign Funds To Three Individuals.

During the period approximately April 1993 to March of 1994, with the authorization and at the instruction of Representative Hilliard, HFCC made at least nine loans totaling approximately \$16,205.04 to three individuals. Approximately \$13,205.04 of the loans was to one individual, and of this amount, \$7,452 has not been repaid.

The remaining \$3,000 in loans by HFCC were made to two individuals employed in the Congressional District office of Representative Hilliard located in Birmingham, Alabama. Each of the remaining two loan recipients received \$1,500. One of the loan recipients fully repaid the \$1,500 loan from HFCC. The other loan recipient has repaid only \$35 of the \$1,500 loan. None of the above-described loans was attributable to any bona fide campaign or political purpose. Although the Investigative Subcommittee received no evidence that Representative Hilliard benefited financially from any of the disbursements in question, each of the loans was for the personal purposes of the recipient and was therefore improper.

Alleged Violation

As described above, with the authorization and at the instruction of Representative Hilliard, HFCC made loans totaling approximately \$16,205.04 to three individuals for purposes not attributable to any bona fide campaign or political purpose of Representative Hilliard. In this manner, Representative Hilliard expended campaign funds for purposes not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described pattern and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause 1.

Count II: Pattern And Practice Of Conduct In Violation Of Former House Rule 43, Clause 6 And Former House Rule 43, Clause 1.

Circumstances Relating To Alleged Violation: Expenditures Of Campaign Funds For Wages, Salaries, And/Or Benefits To Three Individuals For Work Performed For Corporations Owned Or Controlled By Representative Earl F. Hilliard And Members Of His Family.

From approximately July 1992 until August 1996, with the knowledge of Representative Hilliard, HFCC made expenditures for salary and benefits to three individuals for performing services for corporations owned or controlled by Representative Hilliard and members of his family; while receiving these salary and benefit expenditures these individuals did also perform certain functions for HFCC. One of the three individuals received regular expenditures from HFCC from approximately July 1992 until January 1994. The disbursements to this individual totaled approximately \$23,961.67. Another of the three individuals received regular expenditures from HFCC from approximately August 1993 until May 1994. The disbursements to this individual totaled approximately \$7,945.12. The third of the three individuals received regular disbursements from HFCC from approximately April 1994 until August 1996. The disbursements to this individual totaled approximately \$25,242.30. Including disbursements for health care benefits, HFCC made over \$60,000 in disbursements related to these individuals during approximately July 1992 until August 1996.

While paid by HFCC, these three individuals did perform certain functions for HFCC; however, at the same time, these three individuals also routinely performed administrative, secretarial, bookkeeping, and other services for corporations owned or controlled by Representative Hilliard, for which services the payments from HFCC were also intended as compensation. The corporations involved included American Trust Life Insurance Company, American Trust Corporation, and American First Bonding Corporation (also known as American First Bail Bonding Corporation).

Alleged Violation

From approximately July 1992 until August 1996, HFCC made expenditures to three individuals for performing services for corporations owned or controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard converted campaign funds to personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for a purpose not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described pattern and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause 1.

Count III: Pattern And Practice Of Conduct In Violation Of Former House Rule 43, Clause 6 And Former House Rule 43, Clause 1.

Circumstances Relating To Alleged Violation: Expenditures Of Campaign Funds Relating To Use And/Or Occupancy Or Purported Use And/Or Occupancy Of Office Space By The Campaign.

During approximately 1993 through 1996, Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by Representative Hilliard in excess of reimbursement for legitimate and verifiable campaign expenditures and expended by Representative Hilliard for purposes not attributable to bona fide campaign or political purposes.

First, during September through December 1996, at the direction of Representative Hilliard, HFCC made expenditures of \$8,000 of HFCC funds to pay rent for office space in Montgomery, Alabama owed pursuant to a lease Representative Hilliard guaranteed for a private corporation, the American Management and Marketing Corporation, that was owned in substantial part by corporations owned or controlled by Representative Hilliard and his family. While Representative Hilliard stated through counsel that HFCC occupied this office space on a part-time basis and provided to the Investigative Subcommittee copies of brief declarations from two individual for the purpose of corroborating that statement, there is substantial reason for the Investigative Subcommittee to believe that HFCC did not lease, sublease, or occupy this office space during the relevant period.

Second, during October 1993 through April 1995, at the direction of Representative Hilliard, HFCC made expenditures for rent substantially in excess of fair market value to the African American Institute, a Section 501 (c)(3) corporation operated and controlled by members of Representative Hilliard's family,

which in turn transmitted these funds to a corporation owned or controlled by Representative Hilliard and members of his family.

Specifically, as early as 1992, HFCC began to make expenditures of \$600 per month for rent of space within a building located in Birmingham, Alabama owned by the American Trust Life Insurance Company ("ATLIC"), a corporation owned and controlled at the time by Representative Hilliard and members of his family. Beginning in April 1993, HFCC began to make rent payments of \$1,000 per month for rent of space in the Birmingham, Alabama building; however no rent payments were made in July or September 1993. Thereafter, in September 1993, ATLIC sold the building at issue to the African American Institute, a 501(c)(3) operated and controlled by members of his family. There was no exchange of money in connection with the sale of the building, and the sale was not an arms length transaction.

Following the sale of the building, HFCC began to make monthly payments of rent to the African American Institute of \$1,500 per month, an amount that substantially exceeded fair market value for rent. The fair market value for space utilized by HFCC within the building at issue was as low as \$290 per month depending on the amount and quality of space utilized by HFCC. In addition, following the sale of the building to the African American Institute, there was a pattern of sets of payments between HFCC, ATLIC and the African American Institute relating to monthly rent and mortgage payments. HFCC would issue a check for \$1,500 to the African American Institute for rent; ATLIC would also issue a check for \$1,500 to the African American Institute for rent; and the African American Institute would issue a check to ATLIC for \$3,000 for payment on the mortgage note held by ATLIC. Per this pattern, while ATLIC would write a check to the African American Institute for \$1,500 for a month's rent, these funds were returned to ATLIC as part of a \$3,000 mortgage payment paid by the African American Institute.

Third, at the direction of Representative Hilliard, following the resale of the building from the African American Institute back to the American Trust Life Insurance Company in April 1995 and continuing through July 1996, HFCC continued to make expenditures for rent substantially in excess of fair market value, but made such payments directly to corporations owned and controlled by Representative Hilliard and members of his family.

The aforementioned payments of rent by HFCC to the African American Institute and to corporations owned and controlled by Representative Hilliard and members of his family were not the result of arms length negotiations by independent parties with independent interests in the ordinary course of business. During the period approximately October 1993 through July 1996 alone, HFCC made approximately 29 expenditures of rent that totaled at least \$53,100, a substantial portion of which represented rent payments in excess of fair market value. To the extent that rent payments in excess of fair market value were paid by HFCC directly to corporations owned or controlled by Representative Hilliard, and to the extent that such rent payments were made indirectly to ATLIC through the African American Institute, these payments represent a conversion of HFCC funds to entities owned or controlled by Representative Hilliard and members of his family.

Fourth, at the direction of Representative Hilliard, during the time period that HFCC paid rent in connection with the building purchased by the African American Institute from the American Trust Life Insurance Company, HFCC subsidized the other occupants in the building by paying utility expenses incurred for the entire building. Those other occupants were corporations owned and controlled by Representative Hilliard and members of his family. Specifically, at least during the period October 1993 through December 1994, no occupant of the building other than HFCC made payments to the Alabama Power Company, the Alabama Gas Company, Birmingham Water Works, or BellSouth for utility services for the building in Birmingham, Alabama. During that time period, HFCC made expenditures of over \$11,000 to the aforementioned utility companies for which HFCC received no reimbursement from any of the other occupants of the building.

Alleged Violation

As described above, during approximately 1993 through 1996, Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by Representative Hilliard and members of his family in excess of reimbursement for legitimate and verifiable campaign expenditures and were expended by Representative Hilliard for purposes not attributable to bona fide campaign or political purposes. This conduct included (1) the expenditure of \$8,000 of HFCC funds to pay

rent owed pursuant to a lease Representative Hilliard guaranteed for the American Management and Marketing Corporation in Montgomery, Alabama; (2) expenditures for rent substantially in excess of fair market value by HFCC made to a Section 501(c)(3) corporation, operated and controlled by members of Representative Hilliard's family, which in turn transmitted these rent expenditures to a corporation owned and controlled by Representative Hilliard and members of his family; (3) expenditures for rent by HFCC substantially in excess of fair market value made directly to corporations owned or controlled by Representative Hilliard and members of his family; and (4) the expenditure of HFCC funds to pay utility expenses incurred by corporations owned or controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard converted campaign funds for personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for purposes not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described pattern and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause 1.

II. SUMMARY OF FACTS PERTAINING TO REPRESENTATIVE HILLIARD'S PATTERN AND PRACTICE OF CONDUCT THAT VIOLATED CLAUSE 6 OF FORMER HOUSE RULE 43 AND CLAUSE 1 OF FORMER HOUSE RULE 43

A. Background

Representative Earl F. Hilliard has served as a Member of Congress from the Seventh District of Alabama since January 1993. In 1992, Representative Hilliard established the Hilliard for Congress Campaign (hereafter "HFCC") as the political committee authorized by him under 2 U.S.C. § 432(e)(1) to receive contributions or make expenditures on his behalf. *See* 2 U.S.C. § 431(6).

The Investigative Subcommittee found that Representative Hilliard engaged in a pattern and practice of conduct during the period at least 1993 through 1996 that violated Clause 6 of former House Rule 43 (a provision of the Code of Official Conduct that is currently designated as House Rule 23) by converting campaign funds for personal use in excess of reimbursement for legitimate campaign expenditures and expending campaign funds for a purpose not attributable to bona fide campaign or political purposes. The Investigative Subcommittee also found that Representative Hilliard's conduct, as delineated in the Statement of Alleged Violation adopted by the Investigative Subcommittee, did not reflect creditably on the House of Representatives, and therefore violated Clause 1 of former House Rule 43 (a provision of the Code of Official Conduct that is currently designated as House Rule 23).¹

Clause 6 of former House Rule 43 states, *inter alia*, that "[a] Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes."

On its face, Clause 6 of former House Rule 43 restricts Members' use of their campaign funds.² While Members generally have wide discretion as to what constitutes a bona fide political purpose, they may not convert funds to personal use in excess of reimbursement for campaign expenditures that are not only legitimate, but that are also capable of being verified as such.³ The House Select Committee on Ethics of the 95th Congress explained that "[t]he intent of this rule is to restrict the use of campaign funds to politically-related activities and thus to prohibit their conversion to personal use or to supplement official allowances."⁴ In a prior matter applying this rule, the Committee on Standards of Official Conduct held that any use of campaign funds personally benefiting a Member, rather than "exclusively and solely" benefiting the campaign is not a permissible use.⁵ "[A] bona fide campaign purpose is not established merely because the use of campaign money *might* result in a campaign benefit as an incident to benefits personally realized by the recipient of such funds[.]"⁶ (*Italics original*). Moreover, the Committee concluded that "any other interpretation and application of [this rule] would open the door to a potentially wide range of abuse and could result in situations where campaign moneys were expended for the personal enjoyment, entertainment, or economic well-being of an individual without any clear nexus that the funds so expended achieved any political benefit to the disburser (campaign organization) of the funds."⁷

The House Ethics Manual specifically notes that "[o]n four separate occasions, the Committee on Standards of Official Conduct has investigated Members for transferring campaign funds to personal accounts or borrowing

from their campaign funds," and the Committee on Standards of Official Conduct "found violations of [former] Rule 43, Clause 6 in all cases."⁸ At that time the Committee on Standards of Official Conduct reported that "[h]aving issued four separate public reports condemning the practice, the Committee believes that all Members should at this point be on notice that they may not borrow from their campaigns."⁹ The examples provided in the House Ethics Manual included the use of campaign funds by a Member to the Member's administrative assistant "to ease some short-term financial difficulties" and to enable the Member "to purchase a car for personal and campaign use in the district." Under these circumstances, "[t]he Committee concluded that these loans were not undertaken exclusively and solely to benefit the campaign."¹⁰

Clause 1 of former House Rule 43 (now House Rule 23) states that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives." Clause 1 of former House Rule 43 is the most comprehensive provision of the Code of Official Conduct and was adopted in part so that the Committee, in applying the Code, would retain "the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress."¹¹

In this matter, the Investigative Subcommittee determined, with respect to the conduct set forth in each of the three Counts of the Statement of Alleged Violation, that Representative Earl F. Hilliard violated Clause 6 of former House Rule 43, and through the pattern and practice of conduct described in each Count, acted in a manner which did not reflect creditably on the House of Representatives, in violation of Clause 1 of former House Rule 43.

B. Loans of Campaign Funds To Three Individuals

1. Pattern And Practice Of Conduct

As described in detail below, based on evidence gathered during its investigation, the Investigative Subcommittee found reason to believe that during 1993 and 1994, Representative Hilliard and HFCC engaged in a pattern and practice of conduct in which HFCC funds were loaned to individuals apparently for personal purposes. Each of the loans was made with the authorization of Representative Hilliard and at his instruction. The Investigative Subcommittee subpoenaed documents and records from Representative Hilliard and from HFCC, as well as from each of the loan recipients, regarding each of the loans. In addition, each of the loan recipients was subpoenaed for deposition and gave sworn testimony to the Investigative Subcommittee. At the conclusion of its investigation, the Investigative Subcommittee concluded that none of the loans were attributable to any bona fide campaign or political purpose. As noted in the Statement of Alleged Violation adopted by the Investigative Subcommittee, although no evidence was received by the Investigative Subcommittee that Representative Hilliard benefited financially from any of the loans at issue, each of the loans was apparently for the personal purposes of the recipient, and therefore was improper under House Rules.

2. HFCC Loans To Rita Hall Patterson

Rita Hall Patterson is the niece of Representative Earl F. Hilliard.¹² At various times, Rita Hall Patterson held positions within HFCC, as well as within other corporate entities owned or controlled by Representative Hilliard and members of his family.¹³

During approximately April to September 1993, HFCC made six loans totaling approximately \$13,205.04 to Rita Hall Patterson as follows: a loan of \$3,000 on or about April 9, 1993; a loan of \$2,350 on or about May 3, 1993; a loan of \$850 on or about June 2, 1993; a loan of \$752.04 on or about June 25, 1993; a loan of \$1,253 on or about August 19, 1993; and a loan of \$5,000 on or about September 10, 1993. *Exhibit 3*. None of the loans were attributable to any bona fide campaign or political purpose of Representative Hilliard.¹⁴ Ms. Patterson testified that the purpose of each of the loans was to provide her with a source of funds during a period of personal financial need. The Investigative Subcommittee notes, however, that the check from HFCC transmitting the loan for \$5,000 on or about September 10, 1993 was deposited into the account of a corporation known as the Alabama Film and Entertainment Council, an entity incorporated by Representative Hilliard's wife and discussed in more detail later in this Report. Ms. Patterson testified that it was her recollection that the Alabama Film and Entertainment Council cashed the check for her, although she testified that did not remember

what she may have done with the \$5,000 she stated she received.¹⁵ Each of the six loans was authorized and approved personally by Representative Earl F. Hilliard.¹⁶ All the loans to Rita Hall Patterson from HFCC were unsecured and interest-free.¹⁷

3. HFCC Loan To Elvira Williams

Elvira Williams¹⁸ is the district director of Representative Hilliard's district office located in Birmingham, Alabama, a post she has held since Representative Hilliard became a Member of Congress in January 1993. While employed on a full time basis in Representative Hilliard's Birmingham office, Ms. Williams also served as assistant treasurer of HFCC, and secretary, treasurer, and director of the American Trust Life Insurance Company, a corporation owned and controlled by Representative Hilliard and members of his family.¹⁹ At various times, Ms. Williams also held positions in other corporations owned or controlled by Representative Hilliard or members of his family, including the American Trust Corporation.²⁰ Ms. Williams had check writing authority on the accounts of HFCC, American Trust Life Insurance Company, American Trust Corporation, and other corporations owned and controlled by Representative Hilliard and members of his family.

On or about January 18, 1994, the Hilliard for Congress Campaign made a \$1,500 loan to Elvira Williams. *Exhibit 4*. This loan was unsecured and interest-free. The loan to Elvira Williams was authorized and approved personally by Representative Earl F. Hilliard.²¹ During her testimony before the Investigative Subcommittee, Ms. Williams stated that she asked Representative Hilliard for a loan for her personal use, but then, by mistake, wrote the loan check to herself from the account of HFCC. Ms. Williams testified that she should have written the check from the account of one of the corporations owned by Representative Hilliard and members of his family.²²

The Investigative Subcommittee concluded that the January 18, 1994 loan to Ms. Williams was part of the pattern and practice of conduct of Representative Hilliard to authorize loans to individuals of HFCC funds for purposes not related to any bona fide campaign or political purpose. Even though Ms. Williams testified that she wrote the loan check to herself from the account of HFCC in error, she acknowledged under oath that on March 15, 1994, Representative Hilliard approved a loan of HFCC funds to another individual (Jacqueline Smith) and authorized Ms. Williams to issue that check.²³ As discussed in the next subsection of this report, the loan to Jacqueline Smith was also unrelated to any bona fide campaign or political purpose of Representative Hilliard.²⁴ Elvira Williams further testified that no effort was made to educate campaign staff as to the appropriate use of campaign funds and that she personally did not receive any such training.²⁵

4. HFCC Loans To Jacqueline Smith

Jacqueline Smith was formerly employed as a grantwriter in Representative Hilliard's district office located in Birmingham, Alabama.

On or about March 15, 1994, and during the time she was employed in Representative Hilliard's congressional office, HFCC made an \$800 loan to Jacqueline Smith. On or about March 16, 1994, HFCC made a \$700 loan to Jacqueline Smith. *Exhibit 5*. These loans were unsecured and interest-free.²⁶ The loans to Jacqueline Smith were authorized and approved personally by Representative Earl F. Hilliard.²⁷ According to the testimony of Jacqueline Smith, the loans were for her personal use, and not attributable to any bona fide campaign or political purpose of Representative Hilliard.²⁸

5. Conclusions

Based on the evidence gathered regarding the HFCC disbursements to Rita Hall Patterson, Elvira Williams, and Jacqueline Smith, the Investigative Subcommittee concluded there was substantial reason to believe that, with the authorization and at the instruction of Representative Hilliard, HFCC made loans to individuals totaling more than \$16,000 for purposes not attributable to any bona fide campaign or political purpose of Representative Hilliard. In this manner, Representative Hilliard violated Clause 6 of former House Rule 43. The Investigative Subcommittee also

determined that through the pattern and practice of conduct described in this Count, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives, in violation of Clause 1 of former House Rule 43.

C. Expenditures Of Campaign Funds For Wages, Salaries And/Or Benefits To Three Individuals For Work Performed For Corporations Owned Or Controlled By Representative Hilliard And Members Of His Family

1. Pattern and Practice of Conduct

Based on evidence gathered during its investigation, the Investigative Subcommittee found reason to believe that during the period July 1992 through August 1996, Representative Hilliard and HFCC engaged in a pattern and practice of conduct in which individuals were paid by HFCC to perform work for corporations owned and controlled by Representative Hilliard and his family. This pattern and practice of conduct – described in detail below – began shortly after the formation of HFCC and the deposit of campaign contributions into the bank account of HFCC. The individuals paid by HFCC to perform these services did regularly perform certain duties for HFCC. With the knowledge of Representative Hilliard, however, these individuals also routinely performed substantive duties for Hilliard-owned private corporations for which services the payments from HFCC were also intended as, and were in fact, compensation.

2. HFCC Expenditures To Elizabeth Turner

From approximately April 1994 until August 1996, HFCC made expenditures to Elizabeth Turner²⁹ for salary and/or payroll and benefits.³⁰ While receiving salary and/or payroll and benefits from HFCC, Ms. Turner worked in a building located at 1612-1614 3rd Avenue North in Birmingham, Alabama, that was occupied by several entities, including corporations owned by Representative Hilliard and members of his family. From approximately April 1994 to August 1996, HFCC made approximately 36 disbursements to Elizabeth Turner totaling approximately \$25,242.30 for salary and/or payroll related to her paid employment for the campaign.³¹ During the time period, HFCC also made approximately seven disbursements totaling approximately \$3,439 for health care insurance benefits for Elizabeth Turner.³²

While a paid employee of the campaign, Ms. Turner performed bookkeeping for the campaign, paid the campaign's bills, and performed filing and other administrative duties for the campaign. She also assisted in the preparation of certain reports required to be filed by HFCC with the Federal Election Commission.³³

Although Ms. Turner did regularly perform certain functions for the HFCC, the majority of her time and efforts were spent in the service of corporations owned and controlled by Representative Hilliard and members of his family, which corporations were also headquartered in the building located at 1612-1614 3rd Avenue North. These corporations included the American Trust Life Insurance Company (hereafter "ATLIC"). Of the entire time she performed work at that building, Ms. Turner worked not less than fifty percent of her time for ATLIC.³⁴ Her duties for that company included (but were not limited to) bookkeeping, typing, filing, answering the phone, collecting insurance premiums from agents, paying commissions to insurance agents, making bank deposits, and preparing quarterly and annual financial reports to be filed with the State of Alabama Department of Insurance.³⁵

During the investigation, relevant bank records of ATLIC, American Trust Corporation, and other Hilliard-related occupants of 1612-1614 3rd Avenue North were obtained pursuant to subpoena. The bank records indicate that on or about February 2, 1995, American Trust Corporation made an expenditure of \$867.08 to Elizabeth Turner for "payroll." Other than this single disbursement, no evidence was adduced from bank records of ATLIC, American Trust Corporation, or other Hilliard-related businesses that during the time that she was a paid employee of HFCC, Ms. Turner received salary and/or payroll from any of the private corporations for which she performed work at 1612-1614

3rd Avenue North.³⁶ Elizabeth Turner did not become a compensated employee of ATLIC until on or about August 22, 1996, after the entity was placed in receivership due to insolvency and was being operated by the State of Alabama Department of Insurance.³⁷ *Exhibit 9.* Due to her experience and familiarity with ATLIC operations, after ATLIC was placed in receivership in August 1996, Ms. Turner was hired by the State of Alabama Department of Insurance to continue the administration of ATLIC on a day-to-day basis.³⁸

From her first day of employment by HFCC, Ms. Turner's work for ATLIC and other private corporations operating in the same building as HFCC was part of the duties she was required to perform as a condition of her employment for HFCC as enumerated by Representative Hilliard and Elvira Williams.³⁹ According to a list of "contact people" dated July 12, 1994 that ATLIC was requested to submit for use by examiners of the State of Alabama Department of Insurance, Elizabeth Turner was the "contact" for the company for items including "Employee Welfare," "Reinsurance," "Advertising," "Agents Licensing," "Policyholder Complaints," "Insurance on Company Property," "Bank Statements," and "Policy Loans."⁴⁰ *Exhibit 8.* Representative Hilliard had direct, personal knowledge that Ms. Turner was an employee of his campaign organization, and that her regular duties included substantial work for ATLIC and other companies connected to Representative Hilliard. Ms. Turner received her job with HFCC after a personal interview with Representative Hilliard, and after she was hired Representative Hilliard was her supervisor.⁴¹ Ms. Turner testified that after she began her employment, Representative Hilliard personally gave her instructions to perform duties on behalf of ATLIC and other private companies owned in whole or in part by him.⁴²

Q So to summarize, please tell me if I understand correctly, then the Congressman would personally direct to you [sic] to perform certain duties with regard to American Trust Life Insurance Company?

A All of my instructions came either from the Congressman or from Elvira.⁴³

In response to questioning as to who directed her to undertake a specific financial transaction relating to HFCC, the American Trust Corporation, and the African American Institute (a Section 501(c)(3) corporation that operated in the building located at 1612-1614 3rd Avenue North), Ms. Turner testified that she "had constant contact with the Congressman over the phone, and [the instruction] could have come over the phone

or . . . Elvira could have called and said, Liz, the Congressman wants you to write a check for so and so and make the deposit into such and such account. So I said, okay."⁴⁴

In addition to the work she performed for HFCC and ATLIC, as part of her duties as a salaried employee of HFCC, Ms. Turner was also obligated to maintain the financial books and records and perform other duties for other Hilliard owned and controlled private businesses, including American First Bonding Corporation and American Trust Corporation.⁴⁵

3. HFCC Expenditures To Yolanda Williams

From approximately August 1993 until May 1994, the Hilliard for Congress Campaign made expenditures to Yolanda Williams for salary and/or payroll. While receiving salary and/or payroll from HFCC, Ms. Williams, like Elizabeth Turner, worked in a building located at 1612-1614 3rd Avenue North in Birmingham, Alabama that was occupied by several entities, including corporations owned by Representative Hilliard and/or members of his family. On the basis of information submitted by Representative Hilliard (through counsel), from August 1993 to May 1994, HFCC made approximately 11 disbursements to Yolanda Williams totaling approximately \$7,945.12 for salary and/or payroll. *Exhibit 51.*

Prior to Elizabeth Turner's assumption of the position in April 1994, Yolanda Williams was the salaried office manager or secretary of HFCC.⁴⁶ Prior to her departure from HFCC in April 1994, Yolanda Williams trained and instructed Ms. Turner as to her duties, including the responsibility to perform

bookkeeping and other assignments for ATLIC and other private corporations operating in the building.⁴⁷ Although at all times paid by HFCC, Yolanda Williams' understanding at the time of hiring was that she was hired to work for ATLIC and other businesses in the building.⁴⁸ Sometime after she began her employment, Yolanda Williams assumed responsibilities related to HFCC, including bookkeeping, paying bills and other administrative duties for the campaign.⁴⁹

At all times while being paid exclusively by HFCC, Ms. Williams performed work for corporations owned by Representative Hilliard and members of his family that were also headquartered in the building located at 1612-1614 3rd Avenue North. For example, Ms. Williams' duties for ATLIC included (but were not limited to) bookkeeping, bank reconciliation, writing checks, typing letters, answering the phone, preparing annual statements to the State of Alabama Department of Insurance, collecting insurance premiums from agents and recording those payments, banking, paying policies, and miscellaneous secretarial duties.⁵⁰

During that time, Ms. Williams also performed work for the American First Bonding Corporation as assigned to her by Carol Allen.⁵¹ Ms. Allen is the sister of Representative Hilliard, and was the President of American First Bonding Corporation.⁵²

The annual report filed with the State of Alabama Department of Insurance by ATLIC while Ms. Williams was a paid employee of HFCC specifically listed Ms. Williams as an officer of ATLIC, and stated that Ms. Williams held the position of Secretary of the Corporation. *Exhibit 12*. During the time that she was a paid employee of HFCC, Ms. Williams did not receive any salary, income, or other compensation from the private corporations for which she performed work at 1612-1614 3rd Avenue North.⁵³ From her first day of employment by HFCC, Ms. Williams' work for ATLIC and other private corporations operating in the same building as HFCC were services for which the payments from HFCC were intended to be, and were in fact, compensation.⁵⁴

4. HFCC Expenditures To Rita Hall Patterson

From approximately December 1992 until January 1994, the Hilliard for Congress Campaign made regular expenditures to Representative Hilliard's niece, Rita Hall Patterson, for salary and/or payroll and benefits. Like Elizabeth Turner and Yolanda Williams, while receiving salary and/or benefits from HFCC, Ms. Patterson worked in a building located at 1612-1614 3rd Avenue North in Birmingham, Alabama that was occupied by several entities, including corporations owned by Representative Hilliard and/or members of his family. Based on information furnished on behalf of Representative Hilliard, from July 1992 to January 1994, HFCC made approximately 27 disbursements to Rita Hall Patterson totaling approximately \$23,961.67 for salary and/or payroll and benefits. *Exhibit 51*. During that time, Ms. Patterson worked not only for HFCC, but, as described below, also for other private businesses operating in the same building as HFCC.⁵⁵

The first disbursement to Rita Hall Patterson from HFCC took place on or about July 7, 1992, and was in the amount of \$1,297.53. Prior to that date, according to ATLIC ledgers and bank records, Ms. Patterson drew an equivalent salary from ATLIC. Although Ms. Patterson was no longer compensated by ATLIC after being placed on the payroll of HFCC, she continued to perform work for that entity, as well as for the American Trust Corporation.⁵⁶ At all times while being paid exclusively by HFCC, Ms. Patterson's duties on behalf of private corporations owned and controlled by Representative Hilliard or members of his family included bookkeeping, check writing, collecting insurance premiums from agents and recording those payments, banking, paying policies, and providing supervision and direction on a regular basis to Yolanda Williams.⁵⁷

Bank records and other financial records obtained by the Investigative Subcommittee show that during the time that she was a paid employee of HFCC, Ms. Patterson did not receive any salary, income, or other compensation from any of the Hilliard-owned private corporations for which she performed work at 1612-1614 3rd Avenue North.⁵⁸

5. Conclusions

Based on the evidence gathered regarding the work of Elizabeth Turner, Yolanda Williams, and Rita Hall Patterson, the Investigative Subcommittee concluded there was substantial reason to believe that, with the full knowledge of Representative Hilliard, these three individuals were compensated by HFCC for services performed by those individuals for corporations owned and controlled by Representative Hilliard and members of his family. The evidence shows that the work performed for the private corporations at issue was not merely incidental to their HFCC responsibilities; rather, the work of these three individuals was required to carry out the regular and routine day-to-day business functions of ATLIC and the other corporations, thus enabling those businesses to operate. By in essence providing full time staff at no cost, HFCC subsidized private corporations owned and controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard violated Clause 6 of former House Rule 43. Moreover, the Investigative Subcommittee determined that the pattern and practice of conduct by Representative Hilliard, as delineated above and in the Statement of Alleged Violation, was severe enough to reflect discredit on the House of Representatives and therefore, was in violation of Clause 1 of former House Rule 43.

D. Expenditures Of Campaign Funds Relating To Use And/Or Occupancy Or Purported Use And/Or Occupancy Of Office Space By The Campaign

1. Expenditure Of Campaign Funds To A Corporation Owned And Controlled By Representative Hilliard For The Purpose Of Paying Rent Owed By A Related Corporation On A Property Leased In Montgomery, Alabama

On or about April 9, 1996, the American Management and Marketing Corporation ("AMMC") was incorporated under the laws of the State of Alabama. The incorporators of AMMC included three individuals and two corporations. The two corporations, American First Bonding Corporation and American Trust Corporation, were owned and controlled by Representative Hilliard and members of his family. Specifically, American First Bonding Corporation held 167 out of 1000 shares of AMMC, and American Trust Corporation also held 167 out of 1000 shares of American Trust Corporation. At the time of incorporation, John Hilliard (Representative Hilliard's brother by adoption and nephew by birth) was a member of the board of directors and a vice-president of AMMC. The signatories on the articles of incorporation included Carol Allen (Representative Hilliard's sister), who signed as President of American First Bonding Corporation, and Alesia Smith (Representative Hilliard's daughter), who signed as President of American Trust Corporation. *Exhibit 16.*

American Trust Corporation and AMMC entered into a "Station Service Agreement" covering the period March 1, 1996 until February 29, 1999. The signatories to the agreement (undated) included Alesia Smith (as President of American Trust Corporation). Under the terms of the agreement, American Trust Corporation granted AMMC the right to manage and/or operation WIQR, a radio station owned by American Trust Corporation. *Exhibit 17.*

On or about March 15, 1996, and prior to the incorporation of AMMC, and with the knowledge and participation of Representative Hilliard, AMMC entered into a lease with Pizitz Realty Company for occupancy of premises located at 128 Lee Street in Montgomery, Alabama. *Exhibit 18.* With Representative Hilliard's knowledge and consent, the property located at 128 Lee Street was leased by AMMC for the purpose of housing and operating the WIQR radio station leased from the American Trust Corporation by AMMC.⁵⁹ At the time of leasing, Pizitz Realty Company of Birmingham, Alabama owned the leased premises. Another company, Aronov Realty Management, Inc., of Montgomery, Alabama, was engaged by Pizitz Realty Company to manage the property located at 128 Lee Street, and was responsible for maintaining the property, servicing the needs of the tenant, and collecting rents owed and transmitting them to the lessor.⁶⁰ The lease was for a period of four years commencing on April 1, 1996. Under the terms of the lease, rent was payable in monthly installments due on the first day of each calendar month. For the first six months of the lease (April through September 1996), the rent was \$1,000 monthly. For the next six months (October 1996 through March 1997), the rent was \$1,750 monthly. For the remainder of the lease, the rent was \$2,000 monthly. Under the terms of the lease, the lessee (AMMC) was prohibited, *inter alia*, from assigning the lease and from subletting the leased premises absent the advance written consent of the lessor. *Exhibit 18.*

The lessor would not agree to the lease arrangement without a personal guarantee,⁶¹ and on or about

March 15, 1996 Representative Earl F. Hilliard executed a personal guarantee of the lease between Pizitz Realty Company and AMMC as set forth below:

In consideration of the making of this Lease by the Landlord with the Tenant and in the Landlord's reliance on this Guaranty, the undersigned [Earl F. Hilliard], and each of them jointly and severally, hereby guarantees the payment of the rent to be paid by the Tenant and the performance of the Tenant of all the terms, conditions, covenants and agreements of the Lease, and the undersigned promises to pay all the Landlord's expenses, including reasonable attorneys' fees, incurred by the Landlord in enforcing all obligations of the Tenant under the Lease or incurred by the Landlord in enforcing this Guaranty. The Landlord's consent to any assignment or assignments and successive assignments by the Tenant and Tenant's assignees, of this Lease, made either with or without notice to the undersigned, or a changed or different use of the demised Premises, or Landlord's forbearance, delays, extensions of time or any other reason whether similar to or different from the foregoing shall not release the undersigned from liability as guarantor.⁶²

The guarantee also contained the handwritten initials "EH" and handwritten language stating that the guarantee refers to the lease "dated 3/15/96 between Pizitz Realty Company and American Marketing Management Corporation." In addition, John Hilliard signed the aforementioned guarantee as a witness. There were no guarantors of the lease other than Representative Hilliard. *Exhibit 18.*

Prior to agreeing to the lease and allowing Representative Hilliard to guarantee the lease, the lessor also required the submission of financial statements demonstrating that the tenant and guarantor had the means to pay their financial obligations under the lease. *Exhibits 20 and 21.*

As a result of the failure to make rent payments, as of September 1996, the account of AMMC was delinquent in the amount of approximately \$4,000. *Exhibits 20 and 22.* As the guarantor of the lease, Representative Hilliard was personally responsible for the payment of the delinquent rent, and he was threatened with a collection action by the lessor absent payment of the rent in arrears. *Exhibits 20 and 22.*

Subsequent to the threatened collection action, HFCC paid \$2,000 to American Trust Corporation by check dated September 20, 1996. The "description" of the purpose of the payment as written on the check was "Rent Aug & Sept." *Exhibit 23.* This disbursement was reported to the Federal Election Commission as a disbursement for "rent - Montgomery August & September." *Exhibit 25.* By check also dated September 20, 1996, American Trust Corporation paid \$2,000 to Aronov Realty Management, the property manager of 128 Lee Street, Montgomery, Alabama. The expenditure by American Trust Corporation was in satisfaction of the obligation of AMMC and Representative Hilliard to the lessor of 128 Lee Street. As indicated on the document, John Hilliard signed the American Trust Corporation check. *Exhibit 24.*

By check dated September 30, 1996, American Trust Corporation paid another \$2,000 to Aronov Realty Management for rent owed for the 128 Lee Street Property. This check was received by Aronov Realty Management on October 1, 1996. *Exhibit 24.* This check was also signed by John Hilliard, and was written in satisfaction of the obligation of AMMC and Representative Hilliard to the lessor of 128 Lee Street. By check dated October 1, 1996, HFCC paid \$2,000 to American Trust Corporation. Notations on this HFCC check designated it as for "Rent Oct. & Nov." *Exhibit 23.* The payment was reported to the Federal Election Commission as being for October and November 1996 rent, but the report filed did not specify that the rent concerned the occupancy of office space in Montgomery, Alabama. *Exhibit 25.*

By check dated November 1, 1996, American Trust Corporation made a third expenditure of \$2,000 for rent owned on the 128 Lee Street property. *Exhibit 24.* This payment was received by Aronov Realty Management on November 8, 1996. Again, John Hilliard signed this check, which was written in satisfaction of the obligation of AMMC and Representative Hilliard to the lessor of 128 Lee Street. By check dated November 7, 1996, HFCC paid another \$2,000 to American Trust Corporation for rent. *Exhibit 23.* The pertinent entry in the report filed by HFCC with the Federal Election Commission designated this expenditure as for "rent" but did not specify the rental period corresponding to this disbursement or that the rent concerned the use or occupancy of office space in Montgomery, Alabama. *Exhibit 25.*

By check dated December 1, 1996, American Trust Corporation made a fourth expenditure of \$2,000 to Aronov Realty Management for rent owed on the 128 Lee Street property. *Exhibit 24*. This check was signed by John Hilliard, and was received by Aronov Realty Management on December 10, 1996. This expenditure was in satisfaction of the obligation of AMMC and Representative Hilliard to the lessor of 128 Lee Street. By check dated December 9, 1996, HFCC made another \$2,000 payment to American Trust Corporation for "rent." *Exhibit 23*. The pertinent entry in the report filed by HFCC with the Federal Election Commission designated this expenditure as for "rent" but did not specify the rental period corresponding to this disbursement or that the rent concerned the use or occupancy of office space in Montgomery, Alabama.⁶³ *Exhibit 25*.

Although the reports filed with the Federal Election Commission disclosing the payments of \$2,000 to the American Trust Corporation on or about September 20, 1996, November 7, 1996 and December 9, 1996 were all purportedly signed by Elizabeth Turner (then Elizabeth Redmond), as treasurer of HFCC, Ms. Turner had left the employment of HFCC in August 1996.⁶⁴ The reports were signed in her name; however, Ms. Turner testified that she did not sign these reports or any other reports that were filed with the Federal Election Commission after she left HFCC.⁶⁵

HFCC was subpoenaed by the Investigative Subcommittee to produce documents and records relating to HFCC's lease, use, or occupancy of office space in Montgomery, Alabama during July 1, 1996, through June 30, 1997. In addition, Representative Hilliard was subpoenaed to produce all documents and records relating to the ownership, lease, use or occupancy of real property or office space in Montgomery, Alabama by Hilliards & Company, Inc. or any of its subsidiaries in 1996 and 1997. On July 7, 2000, Representative Hilliard's counsel (who also represented HFCC) advised the Investigative Subcommittee that the space leased by AMMC in Montgomery, Alabama was subleased by American Trust Corporation, who in turn "subleased such rented space to the Hilliard for Congress campaign committee in Montgomery, Alabama." *Exhibit 26*. Counsel further stated that the only document possessed by the campaign or Representative Hilliard related to office space in Montgomery, Alabama was a copy of the lease by AMMC of 128 Lee Street, a copy of which was already in the possession of the Investigative Subcommittee.

Although the aforementioned four expenditures \$2,000 by HFCC were purportedly for the lease, use, and occupancy by HFCC of 128 Lee Street in Montgomery, Alabama, the Investigative Subcommittee concluded that HFCC never occupied that office space. Rather, the record indicated that the expenditures were merely a conversion of campaign funds for personal use by Representative Hilliard to satisfy a personal debt obligation he owed to Pizitz Realty Company.

Documents from the lessor of 128 Lee Street showed that in the weeks immediately prior to September 30, 1996, Representative Hilliard was in communication with Aronov Realty Management and provided assurances to that company that AMMC intended to occupy the space and bring current its rental account, which was delinquent in the amount of \$4,000 as of September 30, 1996.⁶⁶ *Exhibit 22*. The documents make no mention whatever of use or occupancy of the Montgomery property by HFCC. Moreover, reports filed by HFCC with the Federal Election Commission did not indicate that HFCC was occupying 128 Lee Street during the time period it was paying rent purportedly for occupying that space. To the contrary, a report filed with the Federal Election Commission by HFCC indicated another entity might have occupied the space at issue. Specifically, in a report of receipts and disbursements filed with the Federal Election Commission on or about July 30, 1997, HFCC reported an expenditure of \$6,000 to the American Advertising Agency for "Advertising Fees Jan., Feb., March, April." The American Advertising Agency was a division of American Trust Communications Corporation, which in turn is a subsidiary of Hilliards and Company, Inc., a corporation owned and controlled by Representative Hilliard and members of his family. The address of the American Advertising Agency was reported by HFCC to be "128 Lee Street, Montgomery, AL 36104," the same location HFCC contended it occupied in late 1996. *Exhibit 27*.

Documents obtained from both the lessor (Pizitz Realty Company) and the property manager (Aronov Realty Management) did not evidence the occupancy of the property by any entity other than AMMC. Neither of those companies ever consented to sublease of that property or had any knowledge of a sublease or use of the property by HFCC.⁶⁷ The Alabama Power Company lacked any record of accounts opened in the name of Representative Earl F. Hilliard, HFCC, the American Trust Communications Corporation, or the American Trust Corporation at 128 Lee Street in Montgomery

during 1996 and 1997. Records of BellSouth, the telephone service provider, confirm that only American Trust Communications Corporation initiated telephone service at 128 Lee Street in Montgomery and that this did not occur until on or about January 31, 1997. BellSouth records also indicate that "Alisia [sic] Smith,"⁶⁸ as American Trust Communications Corporation president, was the contact individual for this account, and that the business for which telephone service was being established was "Radio Stations & Broadcasting Companies." Federal Election Commission reports filed by HFCC did not disclose any other disbursements (such as payments for utilities) that evidenced use of 128 Lee Street by the campaign.⁶⁹ Moreover, officials of AMMC, including its president, lacked any knowledge of HFCC use of the space leased by AMMC.⁷⁰ Neither the President nor Vice President of AMMC nor its Board of Directors ever consented to the use of the space for that purpose.⁷¹ It should be noted, however, that these individuals apparently severed their involvement with AMMC shortly before the purported occupancy of 128 Lee Street by HFCC.

The amount of monthly rent purportedly being paid to sublease 128 Lee Street in Montgomery, Alabama was not consistent with the terms of the lease entered into by AMMC. As of October 1, 1996, the lease required the tenant to pay \$1,750 per month rent. Yet, as indicated on the HFCC checks dated September 20, 1996 and October 1, 1996, and in the Federal Election Commission reports filed by HFCC disclosing those expenditures, HFCC represented that it paid only \$1,000 per month rent for months after October 1, 1996 for the purported use of 128 Lee Street in Montgomery, Alabama. The lessor and property manager did not agree to a reduced rent during this time period. To the contrary, the lessor applied the payments made by the American Trust Corporation in September and October 1996 to the delinquent rent owed by AMMC for prior months.

The testimony received by the Subcommittee did not allay concerns as to whether HFCC in fact occupied 128 Lee Street in Montgomery, Alabama. For example, Elizabeth Turner, the office manager of HFCC until August 1996 at its headquarters in Birmingham, Alabama, had no knowledge of the existence of a campaign office in Montgomery during her time of employment for HFCC.⁷² Ms. Turner, however, left HFCC prior to the four \$2,000 disbursements in question. More notably, John Hilliard testified "I don't recall" in response to a question as to whether he knew of a campaign office in Montgomery during this time period.⁷³ As a participant in the operations and activities of AMMC, and as a volunteer for HFCC during that time period, and as an Alabama State Representative with an office in Montgomery, Alabama, it would appear that John Hilliard would have been in a position to know of an HFCC campaign office in Montgomery in 1996.⁷⁴ Instead, John Hilliard testified that he did not have any memory or knowledge as to where a campaign office of HFCC was located corresponding to the four \$2,000 rent payments made by HFCC from September to December 1996.⁷⁵

As noted in the Statement of Alleged Violation adopted by the Investigative Subcommittee, Representative Hilliard did furnish brief declarations from two individuals for the purpose of evidencing the use of 128 Lee Street by HFCC. The declarations were so lacking in detail that the Investigative Subcommittee could not rely upon them to support the claim of Representative Hilliard that HFCC did lease and use 128 Lee Street in 1996 or any other time. The Investigative Subcommittee also notes that Elvira Williams, the district director of Representative Hilliard's Birmingham office, testified that she was aware of a Montgomery office owned by American Trust Corporation that HFCC leased from American Trust Corporation. In light of inconsistent statements made during her testimony, as well as her assertion that HFCC utilized a Montgomery office at a time that the Investigative Subcommittee was able to confirm the property at 128 Lee Street was vacant and not utilized by any tenant, including HFCC, the Investigative Subcommittee did not credit Ms. Williams's testimony as supporting the existence of a Montgomery campaign office in 1996.

Based on the record before it regarding the aforementioned combined \$8,000 disbursements from HFCC to American Trust Corporation, the Investigative Subcommittee concluded (1) that HFCC did not lease, sublease, or occupy 128 Lee Street during the relevant time period; (2) that Representative Hilliard used campaign funds to pay rent owed pursuant to a lease he guaranteed for AMMC; (3) that Representative Hilliard knowingly caused the expenditure of \$8,000 (consisting of four payments of \$2,000) for a purpose not attributable to any bona fide campaign or political purpose; and (4) that Representative Hilliard attempted to mask the use of campaign funds for an improper purpose by remitting purported rent payments to the American Trust Corporation and reporting to the Federal Election Commission that these expenditures were related to occupancy of a campaign office in Montgomery, Alabama.

2. Expenditures Of Campaign Funds For Rent In Excess Of Fair Market Value Paid To A Non-Profit Corporation That Would Transmit The Funds To A Private Corporation Owned And Controlled By Representative Hilliard And Members Of His Family, And Expenditures Of Campaign Funds For Rent In Excess Of Fair Market Value Paid Directly To Corporations Owned And Controlled By Representative Hilliard And Members Of His Family

a. Overview Of Certain Corporations Owned And Controlled By Representative Hilliard And Members Of His Family

Count III of the Statement of Alleged Violation adopted by the Investigative Subcommittee succinctly describes methods utilized by Representative Hilliard to accomplish the conversion of funds from HFCC to corporations owned and controlled by Representative Hilliard and members of his family. One of these methods was the payment of rent by HFCC in excess of fair market value for use of a building that was owned by corporations owned and controlled by Representative Hilliard and members of his family. The building at issue was located at 1612-1614 3rd Avenue North in Birmingham, Alabama. In the course of its investigation, the Investigative Subcommittee found substantial reason to believe that the corporations involved in the various transactions and events leading to the transmittal of rent in excess of fair market value were not unrelated parties acting independently in their own self-interests. Rather, the corporations and individuals involved were engaged in a form of self-dealing to accomplish the transfer of funds from HFCC to corporations owned and controlled by Representative Hilliard and members of his family. A summary description of the corporate participants is set forth below.

On or about January 2, 1973, Hilliards and Company, Inc., was incorporated under the laws of the State of Alabama. At the time of its incorporation, Representative Hilliard, the corporation's president, held 980 out of 1000 shares of the corporation. The remaining 20 shares were divided equally between Mary Hilliard (Representative Hilliard's wife) and Iola Hilliard (Representative Hilliard's mother). On various later dates, the ownership of Hilliards and Company, Inc. changed, so that at all times relevant to the Investigative Subcommittee's investigation, Representative Hilliard owned approximately 30.48% of shares of Hilliards and Company, Inc., with the remaining shares owned by his wife, children, and other relatives as follows:

Mary Hilliard (spouse of Representative Hilliard): 14.47%
 Earl F. Hilliard, Jr. (son of Representative Hilliard): 13.52%
 Alesia L. Hilliard (daughter of Representative Hilliard): 13.52%
 Iola Hilliard (mother of Representative Hilliard): .95%
 John Hilliard (brother of Representative Hilliard): 13.52%
 Frederick Hilliard (nephew of Representative Hilliard): 13.52%.⁷⁶

The record indicates that Hilliards and Company, Inc. was controlled primarily by Representative Hilliard since its incorporation. Between 1977 and 1982, Hilliards and Company, Inc. acquired 100% ownership of an insurance company that would be renamed the American Trust Life Insurance Company ("ATLIC").⁷⁷ Although titled as a "life insurance" company, ATLIC was in the business of selling burial insurance policies.⁷⁸ According to a January 11, 1995 registration statement filed by Hilliards and Company, Inc. with the State of Alabama Department of Insurance in approximately June 1995, Representative Hilliard was the "ultimate controlling person" for ATLIC.⁷⁹ *Exhibit 28.*

The following persons who are members of Representative Hilliard's family have been identified as serving as officers and/or members of the board of directors of ATLIC during the period approximately 1991 to 1996:⁸⁰

Representative Earl F. Hilliard

Joel K. Hilliard (nephew of Representative Hilliard)

Rita Hall Patterson (niece of Representative Hilliard)

Cheryl Hilliard (niece of Representative Hilliard)

John Hilliard (brother of Representative Hilliard)

Frederick Earl Hilliard (son of Representative Hilliard)

Mary Hilliard (spouse of Representative Hilliard)

Carol Allen (sister of Representative Hilliard).

Since as early as 1990, ATLIC had been experiencing significant cash flow problems,⁸¹ and the entity had been burdened by the assumption of the two mortgages from Representative Hilliard. ATLIC's financial problems apparently worsened during the period 1991-1994.⁸² Eventually, a determination by the State of Alabama Department of Insurance was made that ATLIC was insolvent as of the end of 1994, and that entity was placed in receivership with the State of Alabama in August 1996. *Exhibit 9.*

On or about April 10, 1984, American Trust Corporation was incorporated under the laws of the State of Alabama. The officers of this corporation at the time of its incorporation were John Hilliard (President), Mary Hilliard (Vice President), and Elvira Williams (Secretary/Treasurer). John Hilliard was the Chairman of the Board of American Trust Corporation at its initial incorporation. Mary Hilliard and Elvira Williams were directors of American Trust Corporation at its initial incorporation. At later dates, other members of Representative Hilliard's family were identified as officers and/or directors of American Trust Corporation, such as Alesia Hilliard (Representative Hilliard's daughter), and Rita Hall Patterson (Representative Hilliard's niece). American Trust Corporation was a wholly owned subsidiary of Hilliards and Company, Inc.⁸³

On or about October 28, 1985, American Trust Communications Corporation was incorporated under the laws of the State of Alabama.⁸⁴ The officers of this corporation at the time of its incorporation were Representative Hilliard (President), Mary Hilliard (Vice President), and John Hilliard (Secretary/Treasurer). Representative Hilliard was the Chairman of the Board of American Trust Communications Corporation at its initial incorporation. Mary Hilliard and John Hilliard were directors of American Trust Communications Corporation at its initial incorporation. American Trust Communications Corporation was a wholly owned subsidiary of Hilliards and Company, Inc.⁸⁵

On or about July 14, 1992, American First Bonding Corporation was incorporated under the laws of the State of Alabama.⁸⁶ Carol Allen (Representative Hilliard's sister) was the sole incorporator and owner of this corporation.⁸⁷ Ms. Allen was also the President, Secretary, and Chairman of the Board of Directors of American First Bonding Corporation.⁸⁸ American First Bonding Corporation was either a wholly owned subsidiary of Hilliards and Company, Inc. or a corporation not owned by that entity but still wholly owned by a member of Representative Hilliard's family.⁸⁹

On or about March 23, 1993, the African American Institute ("AAI") was incorporated as a non-profit corporation under the laws of the State of Alabama.⁹⁰ According to the original Articles of Incorporation of this entity, its incorporator was Cheryl Hilliard, the niece of Representative Hilliard. The founding directors of the corporation were Cheryl Hilliard (Chairman of the Board), Rita Hall Patterson (Vice Chairman of the Board), and Carol Allen (Secretary). Rita Hall Patterson is a niece of Representative Hilliard. Carol Allen is Representative Hilliard's sister. Cheryl Hilliard, Carol Allen, and Rita Hall Patterson were also the founding officers of the African American Institute. Cheryl Hilliard was the corporation's founding Executive Director, Carol Allen was its Assistant Director, and Rita Hall Patterson was its Secretary. *Exhibit 14.*

On or about May 28, 1993, the Articles of Incorporation of the African American Institute were amended to report a change in the directors of the corporation. Under the amendment, Rita Hall Patterson was Chairman of the Board, Carol Allen was Vice Chairman of the Board, and Cheryl

Hilliard was Secretary. *Exhibit 15.*

On or about August 26, 1993, the Internal Revenue Service accorded tax-exempt status under Section 501(c)(3) to AAI. The notice of the Internal Revenue Service was directed to Cheryl Hilliard, and informed her that donors to AAI may deduct their contributions in accordance with the Internal Revenue Code and related regulations.

b. *Events Relating To Rent Paid By HFCC For Occupancy Of 1612-1614 3rd Avenue North*

On or about March 17, 1992, Representative Hilliard filed a Statement of Candidacy with the Federal Election Commission. On the same date, an amended Statement of Organization for HFCC was also filed with the Federal Election Commission. According to the amended Statement of Organization, the address of HFCC was a building located at 1612-1614 3rd Avenue North in Birmingham, Alabama, a building owned by ATLIC at the time.

On or about May 15, 1992, HFCC paid \$3,000 for rent to ATLIC. This \$3,000 rent payment was the first such payment by HFCC reported to the FEC. The record indicates that during the period approximately June through October 1992, HFCC made five disbursements of \$600 each to ATLIC for rent. During the period April through August 1993, HFCC made four disbursements of \$1,000 each to ATLIC for rent.

Thereafter, on or about September 29, 1993, ATLIC sold its home office building located at 1612-1614 3rd Avenue North in Birmingham, Alabama, to AAI. ⁹¹ *Exhibit 30.* Following the sale of the building, HFCC began to make monthly payments of rent to the African American Institute of \$1,500 per month. The first such \$1,500 rent payment was made by HFCC to AAI on or about October 5, 1993. The Investigative Subcommittee has determined that prior to the sale of the building and the increase of HFCC's rent to \$1,500 per month, Representative Hilliard was aware that Clause 6 of former House Rule 43 (current House Rule 23) prohibited conversion of campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures, and that the payment of rent by his campaign in excess of that charged by other facilities in the area for similar space, that is, in excess of fair market value, would constitute such a conversion.

Prior to its purchase from ATLIC of the building located at 1612-1614 3rd Avenue North, the African American Institute was a tenant in the building, and made at least one payment of \$1,000 to ATLIC for rent.⁹² Under the terms of the sale, AAI agreed to pay \$385,000 for the property as well as to assume a mortgage owed by Representative Hilliard to William Parker and a mortgage owed by Representative Hilliard to SouthTrust Bank. The balance of the two mortgages AAI agreed to assume totaled \$200,000.⁹³ The total purchase price of the building was thus \$585,000. Documents relating to the sale of the building to AAI included a deed that was executed by Mary Hilliard (Representative Hilliard's spouse), as President of ATLIC. *Exhibit 30.*⁹⁴ Another document, signed by Yolanda Williams as Executive Director of AAI, was styled as a real estate mortgage note and stated that AAI will pay ATLIC the sum of \$385,000 "together with interest upon the unpaid portion thereof from date at the rate of Six (6%) per cent per annum, in monthly installments of Three Thousand and no/100 - (\$3,000.00) Dollars."⁹⁵ *Exhibit 30.*

There was no exchange of money following the sale of the building. \$385,000 of the sales price was financed by ATLIC in consideration of the \$3,000 monthly payments it was to receive from the African American Institute. In addition, under the terms of the sale, AAI was obligated to pay \$1,150 per month in satisfaction of the mortgage owed by Representative Hilliard to SouthTrust Bank, and \$1,125 per month in satisfaction of the mortgage owed by Representative Hilliard to William Parker.

The purchase of the building by AAI resulted in the assumption by AAI of substantial debt obligations that limited its ability to conduct activities consistent with its exempt status under Section 501(c)(3) of the Internal Revenue Code. Whereas AAI had no known debt expenses prior to the September 1993 sale, after the sale it was responsible for two monthly mortgage payments (the mortgages owed by Representative Hilliard to SouthTrust Bank and William Parker) totaling

approximately \$2,275. Further, AAI was obligated to make a \$3,000 monthly mortgage payment to ATLIC. Thus, after its purchase of the building from ATLIC, AAI was obligated to make monthly payments totaling \$5,275. According to its former Executive Director, the debt service assumed by AAI imposed a substantial financial burden on the non-profit organization. According to AAI's bank records, during October 1993 through December 1994, approximately 51% of all AAI expenditures were for mortgage payments resulting from its acquisition of the building. Mortgage payments to ATLIC alone during this period represented approximately 35% of all AAI expenditures. In addition, AAI reported to the Internal Revenue Service that it had received total revenue of \$66,092 during the 1994 calendar year, including \$38,500 in rental income. In addition to that revenue, AAI reported to the Internal Revenue Service that it had expenses of \$50,675 for "occupancy, rent, utilities and maintenance." By contrast, AAI reported expenses for 1994 of only \$773 for "printing, publications, postage, and shipping."⁹⁶ *Exhibit 33.*

By contrast, ATLIC was in a far more favorable position after the sale transfer of the property to AAI. First, ATLIC was relieved of an apparent burden to make \$2,275 in monthly payments for the two mortgages owed personally by Representative Hilliard. In addition, following the sale, ATLIC was to receive an additional \$1,500 per month from funds derived from HFCC. Specifically, following the sale of the building to AAI, there was a pattern of sets of payments among HFCC, ATLIC and AAI relating to monthly rent and mortgage payments. HFCC would issue a check for \$1,500 to AAI for rent; ATLIC would also issue a check for \$1,500 to AAI for rent; and AAI would issue a check to ATLIC for \$3,000 for payment on the mortgage note held by ATLIC. Accordingly, per this pattern, while ATLIC would write a rent check to AAI for \$1,500 for a month's rent, these funds were returned to ATLIC in the form of a \$3,000 mortgage payment paid by AAI.⁹⁷ Thus, the result of the approximately monthly transactions falling within this pattern was that the financial position of ATLIC was improved by \$1,500 approximately each month from funds derived from HFCC.⁹⁸ Thus, by utilizing a third party (AAI), a 50% increase in campaign rent (from \$1,000 to \$1,500) was implemented that ultimately would pass back to ATLIC in the form of a mortgage payment by AAI, and these transfers of funds from HFCC to ATLIC could be accomplished without the outward appearance of self-dealing that would have arisen had ATLIC received the new rent directly from the campaign.⁹⁹ *Exhibit 34.*

On or about April 27, 1995, AAI sold the building located at 1612-1614 3rd Avenue North back to ATLIC for consideration of one dollar (\$1.00) and unspecified "other goods and valuable consideration," and the assumption back by ATLIC of the obligation to pay the two mortgages owed by Representative Hilliard to William Parker and SouthTrust Bank. AAI received no other remuneration from ATLIC.¹⁰⁰ *Exhibit 35.*

Following the sale of 1612-1614 3rd Avenue North back to ATLIC, HFCC continued to make expenditures for rent in connection with its occupancy of this building. Such an expenditure was made to American Trust Corporation on or about May 26, 1995, and was in the amount of \$4,500. No evidence was adduced from title records that at the time of this expenditure, American Trust Corporation (as opposed to ATLIC) owned 1612-1614 3rd Avenue in Birmingham at the time of rent payment, or was otherwise entitled to demand or collect rent for that property at that time.

In addition to the foregoing transaction, the following additional transactions occurred after the sale of 1612-1614 3rd Avenue North back to ATLIC:

On or about July 18, 1995, HFCC made an expenditure of \$1,500 to AAI for rent of space within 1612-1614 3rd Avenue North, even though title records indicate that ATLIC, and not AAI, owned the building at that time.

On or about August 2, 1995, HFCC made an expenditure of \$1,500 for rent. The check for this expenditure was made payable to American Trust Corporation, but the check was ultimately deposited into the account of American First Bonding Corporation. *Exhibit 37.* Title records do not indicate that either American Trust Corporation or American First Bonding Corporation owned 1612-1614 3rd Avenue North at the time of this rent payment.¹⁰¹

On or about November 9, 1995, HFCC made an expenditure of \$3,000 to American Trust Corporation for rent. On or about November 28, 1995, HFCC made an expenditure of \$1,500 to American Trust Corporation for rent. On or about December 31, 1995, HFCC made an expenditure of \$600 to American Trust Corporation for partial payment of rent. Title records indicated that ATLIC, and not American Trust Corporation owned 1612-1614 3rd Avenue North at the time of these rent payments.

On or about January 3, 1996, HFCC made an additional expenditure of \$1,500 to American Trust Corporation for rent, but this check was ultimately deposited into the account of American Trust Communications Corporation. *Exhibit 38*. Title records did not indicate that either American Trust Corporation or American Trust Communications Corporation owned 1612-1614 3rd Avenue North at the time of this rent payment.

On January 22, 1996, HFCC made an additional expenditure of \$1,500 to American Trust Corporation for rent. On or about April 1, 1996, HFCC made two expenditures of \$1,500 apiece to American Trust Corporation for rent. On or about April 4, 1996, HFCC made another expenditure of \$3,000 for rent to American Trust Corporation for rent for May and June. Again, title records indicated that ATLIC, and not American Trust Corporation, owned 1612-1614 3rd Avenue North at the time these rent payments were made.

On July 1, 1996, HFCC made an expenditure of \$1,500 to ATLIC for rent. On July 9, 1996, HFCC made another expenditure of \$1,500 to ATLIC for rent.

In sum, during the period approximately October 1993 through July 1996, HFCC made approximately 29 expenditures for rent in connection with 1612-1614 3rd Avenue North in Birmingham, Alabama, and the amount of those expenditures totaled approximately \$53,100.¹⁰²

Apart from the April 27, 1995, resale of the 1612-1614 3rd Avenue North property from AAI to ATLIC, several documents obtained by the Investigative Subcommittee in this matter purport to memorialize other resales of 1612-1614 3rd Avenue North during the relevant time period. Although none of these other purported sales were recorded in county title records, in the view of the Investigative Subcommittee, these documents indicating resales of 1612-1614 3rd Avenue North by AAI to ATLIC were significant because they evidenced the close relationship between the parties and raised further questions as to whether any of the sales of this building between Hilliard-related enterprises were legitimate business transactions.¹⁰³ For example, a warranty deed dated June 28, 1995 appeared to memorialize the sale by AAI to ATLIC of the building located at 1612-1614 3rd Avenue North. *Exhibit 40*. According to this document, the sales price for the building was \$1,000 and the assumption by ATLIC of mortgages owed by Representative Hilliard to William Parker and SouthTrust Bank. According to county title records, the building was already owned by ATLIC on the date the warranty deed was executed, and no evidence was obtained from witnesses or title records either of a repurchase by AAI from ATLIC of the building located at 1612-1614 3rd Avenue North or of a reassumption by AAI from ATLIC of the obligation to make payments on the two personal mortgages owed by Representative Hilliard to William Parker and SouthTrust Bank. As noted (*supra* p. 46), however, on or about July 18, 1995, HFCC made an expenditure of \$1,500 to AAI for rent, even though title records indicated that ATLIC owned the building at that time. Another document obtained by the Investigative Subcommittee similarly evidences the apparent fluid nature of ownership of 1612-1614 3rd Avenue North. According to a sales contract dated August 22, 1995, ATLIC sold American Trust Corporation the building located at 1612-1614 3rd Avenue North in Birmingham for the purchase price of \$305,000, which amount includes the assumption of two unspecified mortgages. *Exhibit 41*. Under this contract, the sale of the building was to close by October 1, 1995. Again, title records and American Trust Corporation financial records obtained by the Investigative Subcommittee do not reflect this transaction.

c. Fair Market Value For Sale And Rental Of 1612-1614 3rd Avenue North

One of the core issues before the Investigative Subcommittee in this matter was whether HFCC

paid fair market value for rent of a building owned by corporations or controlled by Representative Hilliard and members of his family. Accordingly, the Investigative Subcommittee undertook to ascertain the fair market value for rent of the building in question. A subsidiary question raised in this matter was whether the sale of the building to AAI and the repurchase of the building from AAI by ATLIC were transactions made for the purpose of justifying or masking inflated rents to be paid by HFCC. Therefore, the Investigative Subcommittee also made an effort to determine the fair market value of the building during the relevant time period.

i. Fair Market Value For Sale Of 1612-1614 3rd Avenue North

The evidence garnered by the Investigative Subcommittee showed that the fair market value of 1612-1614 3rd Avenue North was hundreds of thousands of dollars lower than \$585,000 at the time of the sale of the building to AAI in September 1993.

In 1991, Representative Hilliard personally engaged an appraiser, Lonnie Tidwell, to estimate the market value of 1612-1614 3rd Avenue North. The report of Mr. Tidwell to Representative Hilliard, dated August 30, 1991, concluded that the property had a market value of \$305,000. This figure was contingent upon the completion of renovations to the building; however it appears that these renovations were never completed. *Exhibit 42*. Mr. Tidwell had also been engaged by Representative Hilliard in approximately March 1987 to estimate the fair market value of 1612-1614 3rd Avenue North, and at that time, Mr. Tidwell determined the fair market value of the property at that time to be \$260,000, also subject to the completion of renovations. *Exhibit 43*.

The Investigative Subcommittee also obtained a copy of a December 1987 "appraisal" of 1612-1614 3rd Avenue North prepared for Representative Hilliard by real estate agent Willie A. Casey. *Exhibit 44*. While Mr. Casey's "appraisal" states the property's value to be \$654,000, this "appraisal" was not creditable for several reasons, and no credence was given by the Investigative Subcommittee to the conclusions contained in that document except to the extent that the existence of this document raised concerns as to the purpose for which the document was generated. First, Mr. Casey was not a qualified professional appraiser. Second, at the time of the appraisal, Mr. Casey was a real estate agent or broker associated with a real estate company affiliated with Representative Hilliard called the American Trust Land Company located in the building at 1612-1614 3rd Avenue North in Birmingham, Alabama. Third, Mr. Casey was, or had been, associated with Representative Hilliard in one of Representative Hilliard's businesses. Indeed, Mr. Casey was not paid monetarily for the appraisal. Rather, Mr. Casey prepared and executed the appraisal in return for legal services performed by Representative Hilliard.¹⁰⁴ Finally, except for certain numerical data purporting to justify the estimated market value of the property, this "appraisal" was a near verbatim copy of the appraisal prepared by Lonnie Tidwell nine months earlier. *Exhibit 44*. While giving sworn testimony to the Investigative Subcommittee on February 10, 2000, Mr. Tidwell reviewed Mr. Casey's "appraisal" for the first time. Mr. Tidwell testified that "its obvious to me that someone copied" the report he was paid to prepare for Representative Hilliard.¹⁰⁵

During the course of its inquiry, the Investigative Subcommittee also obtained documents regarding the subject property from the Jefferson County Board of Equalization and Adjustments. Those documents show that on or about May 12, 1994, Representative Hilliard, who had been a real estate broker, represented to the Board that in his opinion the value of the property at 1612-1614 3rd Avenue North was \$100,000. *Exhibit 45*. In addition, on or about May 31, 1995, ATLIC (through John Hilliard, as President) also represented to the Board that it considered \$100,000 to be the fair market value of the property.¹⁰⁶ *Exhibit 46*. Of significance to the issue of Representative Hilliard's relationship to AAI, at the time of Representative Hilliard's protest, the building in question was legally owned by AAI, an entity with which Representative Hilliard repeatedly represented, through counsel, he never had any involvement.¹⁰⁷

To resolve questions related to the fair market value of 1612-1614 3rd Avenue North, the Investigative Subcommittee engaged the services of two professional appraisers located in Birmingham, Alabama to estimate independently of one another the fair market value of 1612-

1614 3rd Avenue North during the period 1993-1995. Both of the appraisers engaged by the Investigative Subcommittee were Alabama Certified General Real Property Appraisers, and both were certified members of the Appraisal Institute and the Counselors of Real Estate. Each appraiser had decades of experience in the area of real estate appraisals for which they were engaged by the Investigative Subcommittee.

In conducting their analyses, the appraisers considered factors including, but not limited to, prior sales of comparable properties during relevant time periods, as well as the condition and location of the subject building. Both appraisers concluded independently of one another that the fair market value of the building during the time period in question was substantially lower than the purchase price paid by AAI in 1993. One of the appraisers estimated the fair market value of the building was \$150,000 during 1993-1995.¹⁰⁸ *Exhibit 47*. The other appraiser estimated that the fair market value of the building was in the range of \$130,000 to \$140,000 during that time period.¹⁰⁹ *Exhibit 48*.

ii. Fair Market Value For Rent Of 1612-1614 3rd Avenue North

The two professional appraisers engaged by the Subcommittee were also asked by the Subcommittee to estimate independently of one another the fair market value for rent of 1612-1614 3rd Avenue North during the time period (1992 to 1996) that the building was reportedly occupied by HFCC, among others. In conducting their detailed analyses, the appraisers considered, among other factors and information, competitive rental data from the neighborhood of the subject building, and information obtained from interviews of property managers and tenants in that neighborhood.

The building at issue, 1612-1614 3rd Avenue North, is a two-story office building with approximately 14,000 square feet of space. Approximately 7,000 square feet of the space within the building is located on the building's upper floor, which is an essentially unfinished shell. The ground floor, also approximately 7,000 square feet, essentially is divided into two areas separated by a wall. Each of the two areas on the ground floor has its own address and separate front entrance. The address of the east side of the building is 1614 3rd Avenue North; the ground floor of this side is divided into office space by partitioning walls that do not reach the ceiling and includes a conference room and a reception area. The west side of the building (1612 3rd Avenue North) is retail/commercial space and, unlike the other side of the building, the ground floor has not been improved by division into separate offices.

Both of the appraisers engaged by the Investigative Subcommittee concluded that the fair market value for rent in the building depended upon the space within the building that was being occupied. According to the appraisals provided to the Investigative Subcommittee, the estimated fair market value of rent of the entire ground floor of the west side of the building (1612 3rd Avenue North) was as low as \$350 per month and as high as \$700 per month. The estimated fair market value of the rent for the entire ground floor of the east side of the building (1614 3rd Avenue North) was as low as \$700 per month and as high as \$1,167 per month. The estimated fair market value of rent of a single office suite within the east side of the building (1614 3rd Avenue North) was as low as \$290 per month and as high as \$333 per month. The estimated fair market value of rent of the building's second floor shell space (entire upper floor of building) was as low as \$150 per month and as high as \$233 per month. *Exhibits 47 and 48*.

Based on the evidence it gathered, the Investigative Subcommittee concluded that during Representative Hilliard's 1992 campaign for Congress, HFCC utilized space on the ground floor of the 1612 3rd Avenue North side of 1612-1614 3rd Avenue North. At some point thereafter, HFCC instead occupied, at most, a single office of the approximately six to eight offices within the 1614 3rd Avenue North side of 1612-1614 3rd Avenue North. Indeed, based on materials obtained by the Investigative Subcommittee, it appears that the largest office on the 1614 3rd Avenue North side was no more than approximately 18 feet by 14 feet (252 square feet) within

the approximately 14,000 square foot building. *Exhibit 42*. The other offices in the 1614 3rd Avenue North side of the building were occupied by various other entities including, ATLIC, AAI, American Trust Corporation, American First Bonding Corporation, and possibly other entities owned and controlled by Representative Hilliard and members of his family.¹¹⁰ Notably, by at least approximately September 1, 1995, the ground floor of the 1612 3rd Avenue North side of 1612-1614 3rd Avenue North was leased to Williamson & Harrell Photographers by American Trust Corporation for \$350 per month. *Exhibit 52*. HFCC had paid as much as \$1,500 per month in connection with its use of that same space. *Exhibit 53*.¹¹¹

Based on the information obtained during its investigation, including the reports of the appraisers engaged by the Investigative Subcommittee, interviews and depositions of witnesses, the lease entered into between American Trust Corporation and Williamson & Harrell Photographers, and other documentary evidence, the Investigative Subcommittee found substantial reason to believe that to the extent HFCC paid \$1,500 per month for occupancy of 1612 3rd Avenue North, the rent paid greatly exceeded fair market value. The Investigative Subcommittee found substantial reason to believe that, at most, HFCC utilized office space within 1612-1614 3rd Avenue North that had a fair market rent of as much as \$700 per month (the highest estimate of fair market value of rent for use of the 1612 3rd Avenue North side of the building at issue), and as low as \$290 per month (the lowest estimate of fair market rent for use of a single office suite within the 1614 3rd Avenue North side of the building). Based on these estimates, and the evidence regarding use of space by HFCC, in each month, for example, that HFCC paid \$1,500 per month for use or occupancy of the Birmingham building owned by Representative Hilliard and members of his family, either directly or through AAI, approximately \$800 to \$1,210 per month of HFCC funds were converted to personal use by Representative Hilliard and used by him for purposes not attributable to bona fide campaign purposes.

As noted (*supra* p. 47), HFCC paid a total of approximately \$53,100 for rent of space within 1612-1614 3rd Avenue North during the period October 1993 through July 1996. Thus, on average, HFCC paid approximately \$1,562 per month for rent during that 34 month time period. Based on the estimated fair market value for rent of the space used by HFCC within the building in question, approximately between \$29,300 [\$53,100 minus (\$700 times 34 months)] and \$43,240 [\$53,100 minus (\$290 times 34 months)] of the \$53,100 total rent paid by HFCC represents funds converted to personal use by Representative Hilliard and used by him for purposes not attributable to bona fide campaign purposes.

d. *Benefits To Representative Hilliard And/Or Members Of His Family Stemming From HFCC Rent Payments And The Sales Of 1612-1614 3rd Avenue North*

As noted, payments of rent in excess of fair market value by a candidate's campaign to a company owned by the candidate were not permitted under House Rules governing campaign expenditures. To the extent that rent payments in excess of fair market value were paid by HFCC directly to ATLIC, American Trust Corporation, and other corporations owned and controlled by Representative Hilliard and members of his family, and to the extent that such payments were made indirectly through AAI, these payments represented a conversion of HFCC funds to Representative Hilliard and members of his family.

Apart from the improvement to the financial bottom line of Hilliard-owned corporations, review of the subpoenaed bank and corporate records provided other indicia of how Representative Hilliard or members of his family may have benefited from the conversion of HFCC funds. For example, during the period that HFCC was paying \$1,500 per month for rent for occupancy of 1612-1614 3rd Avenue North to AAI and corporations owned by Representative Hilliard and members of his family, numerous checks designated as "loan repayment" were issued by the various Hilliard-owned corporations to Earl F. Hilliard. The Investigative Subcommittee did not undertake an investigation of whether Representative Hilliard actually made loans to the corporations, owned by him and members of his family, for which these payments made by the corporations to him represented repayment. Nonetheless, the substantial amount of HFCC funds transferred to ATLIC and other Hilliard-owned corporations as described in this Report were

among the funds available to the corporations to pay Representative Hilliard and, thereby, to benefit him personally.

The timing of some of the "loan repayments" identified served to exacerbate the Investigative Subcommittee's concerns regarding these transactions. For example, by check dated October 13, 1994, ATLIC issued a \$500 check to Earl F. Hilliard for "loan repayment." *Exhibit 56*. By check dated just the following day, ATLIC received a \$3,000 payment from AAI, of which \$1,500 was funds paid by HFCC to AAI for rent of 1612-1614 3rd Avenue North in Birmingham. *Exhibit 34*.

In addition, as previously noted (*supra* note 99), on or about February 13, 1995, HFCC issued a \$3,000 check to AAI for rent that, apparently at the instruction of Representative Hilliard,¹¹² was deposited directly into the bank account of American Trust Corporation. *Exhibit 36*. Thereafter, over the next 16 days, American Trust Corporation made five expenditures to Earl F. Hilliard totaling \$2,935 that were designated as "loan repayments," as follows: check number 1216 for \$85 dated February 14, 1995; check number 1217 for \$600 expenditure dated February 14, 1995; check number 1218 for \$600 dated February 15, 1995; check number 1219 for \$600 dated February 20, 1995; and check number 1223 for \$1,050 dated March 1, 1995. *Exhibit 57*.

Also as previously noted (*supra* p. 46), on or about August 2, 1995, HFCC made an expenditure of \$1,500 for rent to American Trust Corporation that was ultimately deposited into the account of American First Bonding Corporation. *Exhibit 37*. Subsequent to this deposit, by check dated August 21, 1995, American First Bail Bonding paid \$1,200 to Earl F. Hilliard. A notation on the check designated the \$1,200 expenditure as "partial loan repayment." *Exhibit 58*.

Finally, again as previously noted (*supra* p. 46), by check dated November 9, 1995, HFCC made an expenditure of \$3,000 to American Trust Corporation for rent. *Exhibit 59*. By check dated the same date, American Trust Corporation paid \$3,000 to American Trust Communications Corporation. *Exhibit 59*. A notation on this American Trust Corporation check designated this payment as "loan." Also by check dated November 9, 1995, American Trust Communications Corporation then paid \$400 to Earl F. Hilliard. Approximately four days later, by check dated November 13, 1995, American Trust Communications Corporation paid another \$1,000 to Earl F. Hilliard. *Exhibit 59*. Notations on the \$400 and \$1,000 checks from American Trust Communications Corporation to Earl F. Hilliard designated the checks as "loan repayments."¹¹³

In addition to the above-cited examples, bank records indicated the occurrence of other "loan repayments" totaling thousands of dollars to Earl F. Hilliard by the corporations at issue. Even in the absence of these payments or other payments apparently benefiting Representative Hilliard or members of his family, by the very fact of effectively transferring HFCC funds to corporations owned by him and members of his family, Representative Hilliard added to his personal wealth and to the wealth of his family members that shared in the ownership of the corporations. The Investigative Subcommittee notes its concern that in a March 5, 1998 letter to the Committee, Representative Hilliard advised the Committee that neither he nor any member of his family benefited financially, either directly or indirectly, from rent paid by HFCC for use of the building at 1612-1614 3rd Avenue North. *Exhibit 50*. In that letter, Representative Hilliard also represented to the Committee that neither he nor any member of his family benefited from the sale of the building at 1612-1614 3rd Avenue North to AAI "because no income was derived in light of the fact that the African American Institute did not distribute profits (and he held no position in the organization)." *Exhibit 50*. The evidence gathered by the Investigative Subcommittee in this matter regarding rent paid by HFCC and the use of AAI to convert HFCC funds to personal use casts doubt on the truth and accuracy of the representations in Representative Hilliard's March 5, 1998 letter to the Committee.

e. Conclusions Regarding HFCC Occupancy Of 1612-1614 3rd Avenue North

Based on the foregoing, the Investigative Subcommittee reached the following conclusions:

- (1) The sale of the building from ATLIC to AAI in September 1993 was not an "arms length" transaction, i.e., a transaction negotiated by unrelated parties, each acting in its own self interest.¹¹⁴

Rather, the parties were engaged in a form of self-dealing, in which the sale of the building from ATLIC to AAI in September 1993 for an amount substantially in excess of the property's fair market value enabled AAI (a Section 501(c)(3) corporation) to be used as a conduit for the transfer of funds from HFCC to ATLIC, a corporation owned by Representative Hilliard and members of his family;

(2) The \$1,500 monthly rent paid by HFCC to AAI for its occupancy of 1612-1614 3rd Avenue North substantially exceeded fair market value for rent in light of the quantity and quality of the space used and/or occupied by HFCC. By utilizing AAI (a nominal third party operated and controlled by members of Representative Hilliard's family), rent in excess of fair market value could pass back to ATLIC or other corporations owned by Representative Hilliard and members of his family in the form of a \$3,000 mortgage payment by AAI. These transfers of funds from HFCC were thus accomplished without the appearance of self-dealing that may have arisen had ATLIC received the newly increased rent directly from HFCC, and resulted in a conversion of funds from HFCC to ATLIC or other corporations owned by Representative Hilliard and members of his family; and

(3) The monthly amount paid by HFCC to ATLIC, American Trust Corporation, and other corporations owned by Representative Hilliard and members of his family for rent of 1612-1614 3rd Avenue North substantially exceeded fair market value for rent in light of the quality and quantity of the space used and/or occupied by HFCC. These payments in excess of fair market value resulted in a conversion of HFCC funds to corporations owned by Representative Hilliard and/or members of his family.

In sum, during 1993 through 1996, at the direction of Representative Hilliard, HFCC paid rent in excess of fair market value for use or occupancy of office space within a building owned either by a corporation owned and controlled by Representative Hilliard and members of family or by a tax exempt corporation controlled by members of Representative Hilliard's family. Through these expenditures, HFCC funds were improperly converted to one or more corporations owned by Representative Hilliard and members of his family. Representative Hilliard directed these expenditures of HFCC funds despite his awareness of the restrictions in Clause 6 of former House Rule 43 (current House Rule 23) governing the use of campaign funds for payment of rent for Member-controlled entities, and despite his awareness that the payment of rent by his campaign in excess of that charged by other facilities in the area for similar space would constitute a conversion of HFCC funds. The conversion of funds at issue utilized two methods: (1) expenditures for rent by HFCC in excess of fair market value made directly to corporations owned by Representative Hilliard and members of his family; and (2) expenditures for rent in excess of fair market value by HFCC made to a Section 501(c)(3) corporation (AAI) that was used as a conduit for the transfer of funds between HFCC and corporations owned by Representative Hilliard and members of his family.

3. Expenditure Of HFCC Funds To Pay Utility Bills Of Corporations Owned And Controlled By Representative Earl F. Hilliard And Members Of His Family

During the time period that HFCC paid rent in connection with its stated occupancy of 1612-1614 3rd Avenue North in Birmingham, that building was simultaneously occupied by several private corporations owned and controlled by Representative Hilliard and members of his family. Those corporations included ATLIC, American Trust Corporation, and American First Bonding Corporation. As noted (*supra* p. 53), HFCC occupied only a portion of the building at any one time and, for a substantial time, occupied only a single office of approximately at most 18 by 14 feet (252 square feet) within the combined approximately 14,000 square feet of space within the building.¹¹⁵

On or about March 5, 1998, Representative Hilliard (through counsel) represented to the Committee on Standards of Official Conduct that each occupant of the 1612-1614 3rd Avenue North "paid its own overhead and rent" during the period that HFCC also occupied space in that building. *Exhibit 50*. On or about April 2, 1998, Representative Hilliard (through counsel) represented to the Committee that HFCC "had separate utilities with respect to occupancy of the rental at 1612 3rd Avenue North and paid them." *Exhibit 51*. Documentation obtained from HFCC as well from utility companies confirms, however, that at least during the period approximately October 1993 through December 1994, HFCC directly subsidized the other occupants in the building (including private corporations owned and controlled by Representative Hilliard and members of his family) by paying utility expenses incurred for the entire building. During that time period, HFCC received no reimbursement for these expenditures from any of

the other occupants of the building.

a. **HFCC Payments to Alabama Power Company**

During the period of approximately October 26, 1993 until approximately December 6, 1994, HFCC issued eleven checks totaling \$2,278.60 either to "Cash" or to the Alabama Power Company for the purpose of paying amounts owed to the Alabama Power Company for use of electricity in 1612-1614 3rd Avenue North. During that time period, the building had two electric power meters, i.e., electric power used at 1612 3rd Avenue North was metered separately from electric power used at 1614 3rd Avenue North. The Alabama Power Company account number for 1612 3rd Avenue North was 5110-732-0060-53, and this account was in the name of Earl F. Hilliard. The Alabama Power Company account number for 1614 3rd Avenue North was 5110-732-0670-41, and this account was in the name of the American Trust Corporation.

A review of records obtained from the Alabama Power Company pursuant to a subpoena authorized by the Investigative Subcommittee revealed that during the period of time in which HFCC issued the aforementioned eleven checks towards the use of electric power at 1612-1614 3rd Avenue North, no other occupants of that building made payments to the Alabama Power Company in connection with the use of electric power at 1612-1614 3rd Avenue North. Payments in satisfaction of monetary obligations to the Alabama Power Company for the building at issue were made exclusively by HFCC, even though it occupied only a portion of the building.

One of those checks is dated November 22, 1993, and was in the amount of \$169.12. Notations on this check indicate that \$53.04 of this check was to be applied to Alabama Power Company account number 5110-732-0660-53 (1612 3rd Avenue North), and that the balance of the check, \$116.08, was to be applied to Alabama Power Company account number 5110-732-0670-41 (1614 3rd Avenue North). Another check issued to the Alabama Power Company by HFCC is dated March 21, 1994 and was in the amount of \$324.14. Notations on this check indicate that \$92.64 of this check was to be applied to Alabama Power Company account number 5110-732-0660-53 (1612 3rd Avenue North), and that the balance of the check, \$231.50 was to be applied to Alabama Power Company account number 5110-732-0670-41 (1614 3rd Avenue North). **Exhibit 61.** Alabama Power Company records confirmed that payments were applied by the utility as instructed on these checks. **Exhibit 62.**

The remaining nine checks were made payable to Cash; however, utility records and notations on the checks confirm that these checks were issued to satisfy Alabama Power Company accounts in 1612-1614 3rd Avenue North. Again, even though the record indicates that HFCC did not use or rent that space during the applicable time period, the entirety of two checks (one dated December 23, 1993 for \$116.17 and the other dated January 31, 1994 for \$98.64) were in satisfaction of the account for 1614 3rd Avenue North. The chart below lists the dates of the eleven aforementioned checks issued by HFCC for Alabama Power Company accounts, as well as the payee, the amount of each check, and subsequent credits to each metered account at 1612-1614 3rd Avenue North.¹¹⁶

Date Of Check	Payee	Amount Of Check Drawn On Account Of HFCC	Amount Paid On Alabama Power Company Account For 1612 3 rd Avenue North (Account Number 5110-732-0660-53)	Amount Paid On Alabama Power Company Account For 1614 3 rd Avenue North (Account Number 5110-732-0670-41)
10/26/93	Cash	\$379.20	\$186.55	\$192.55
11/22/93	Alabama	169.12	53.04	116.08

	Power Company			
12/23/93	Cash	116.17	0	116.17
1/31/94	Cash	98.64	0	98.64
3/21/94	Alabama Power Company	324.14	92.64	231.50
5/13/94	Cash	195.33	86.94	108.39
5/31/94	Cash	158.39	40.15	118.24
6/10/94	Cash	179.37	40.00	139.37
8/19/94	Cash	204.65	102.48	102.17
10/18/94	Cash	233.80	92.68	141.12
12/6/94	Cash	219.79	69.26	150.33
				Total: \$2,278.60

b. HFCC Payments To Alabama Gas Company

During the period approximately October 6, 1993 until December 6, 1994, HFCC issued seven checks totaling \$1,524.34 to the Alabama Gas Company (also known as Alagasco) for the purpose of paying amounts owed to that utility for use of natural gas in 1614 3rd Avenue North. During that time period, the building had two gas meters, i.e., natural gas use at 1612 3rd Avenue North was metered separately from natural gas use at 1614 3rd Avenue North. The account for 1614 3rd Avenue North was in the name of Earl F. Hilliard.

A review of records obtained from the Alabama Gas Company pursuant to a subpoena authorized by the Subcommittee revealed that during the period of time in which HFCC issued the aforementioned seven checks towards the use of gas at 1614 3rd Avenue North, no other occupants of that building made payments to Alagasco in connection with use of natural gas in that building. *Exhibit 63*. Payments in satisfaction of monetary obligations to the Alagasco were made exclusively by HFCC, even though no evidence was adduced that HFCC was even an occupant of 1614 3rd Avenue North, much less its sole occupant, during the applicable time period. According to Alagasco records, there is no evidence of any payments for gas service at 1612 3rd Avenue North during the period in which HFCC made expenditures for gas service at 1614 3rd Avenue North.

The chart below lists the dates and amounts of the seven aforementioned checks issued by HFCC to Alagasco for the use of natural gas at 1614 3rd Avenue North.

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Date Of Check	Payee	Amount Of Payment By HFCC To Alagasco For Use Of Natural Gas At 1614 3 rd Avenue North
10/6/93	Alagasco	\$ 17.72
1/27/94	Alagasco	437.13
3/21/94	Alagasco	628.28
6/10/94	Alagasco	250.45
9/8/94	Alagasco	49.59
10/18/94	Alagasco	17.59
12/6/94	Alagasco	123.58
		Total: \$1,524.34

c. HFCC Payments To Birmingham Water Works

During the period approximately October 6, 1993 until December 6, 1994, HFCC issued eight checks totaling \$1,395.12 to Birmingham Water Works for the purpose of paying amounts owed to that utility for water and sewer service in 1612-1614 3rd Avenue North. This utility did not separately meter the two sides of the building. The account for the Birmingham Water Works account for the entire building was in the name of Hilliard & Company, Inc., an entity owned by Representative Hilliard and members of his family.

A review of records obtained from Birmingham Water Works pursuant to a subpoena authorized by the Investigative Subcommittee revealed that during the period of time in which HFCC issued the aforementioned eight checks for water and sewer service at 1612-1614 3rd Avenue North, no other occupants of that building made payments to Birmingham Water Works in connection with water and sewer service in that building. *Exhibit 64*. Payments in satisfaction of monetary obligations to Birmingham Water Works for the building at issue were made exclusively by HFCC, even though that entity occupied only a portion of the building.

The chart below lists the dates and amounts of the eight aforementioned checks issued by HFCC to Birmingham Water Works for water and sewer service at 1612-1614 3rd Avenue North.

Date Of Check	Payee	Amount Of Payment By HFCC To Birmingham Water Works For Water And Sewer Service At 1612-1614 3 rd Avenue North
10/6/93	Birmingham Water Works	\$ 83.28
1/27/94	Birmingham Water Works	230.32
3/18/94	Birmingham Water Works	335.17
5/9/94	Birmingham Water Works	154.07

6/10/94	Birmingham Works	Water	140.54
8/23/94	Birmingham Works	Water	198.08
10/18/94	Birmingham Works	Water	103.26
12/6/94	Birmingham Works	Water	150.40
			Total: \$1,395.12

d. HFCC Payments To South Central Bell

During the period approximately October 5, 1993 until December 6, 1994, HFCC issued 13 checks totaling \$5,939.57 to South Central Bell (now known as BellSouth) for the purposes of paying amounts owed to that utility for telephone service at 1614 3rd Avenue North. The telephone numbers and telephone service for this building were utilized not only by HFCC, but also by ATLIC, American Trust Corporation and other private corporations and entities affiliated with Representative Hilliard and members of his family that occupied 1614 3rd Avenue North. The Investigative Subcommittee obtained and reviewed records of BellSouth, HFCC, and the other occupants of the building. No evidence was adduced by the Investigative Subcommittee that any occupant other than HFCC made payments to South Central Bell in connection with telephone service at 1614 3rd Avenue North during the aforementioned time period.

The chart below lists the dates and amounts of the 13 aforementioned checks issued by HFCC to South Central Bell for telephone service at 1614 3rd Avenue North.¹¹⁷

Date Of Check	Amount Of Payment By HFCC To South Central Bell For Telephone Service At 1614 3 rd Avenue North
10/5/93	\$ 435.65
10/25/93	407.82
12/2/93	448.19
1/10/94	425.05
3/15/94	853.90
5/5/94	425.30
6/9/94	408.50
7/6/94	278.79
8/19/94	288.87
9/2/94	484.87
10/7/94	566.55

11/7/94	451.70
12/6/94	464.38
	Total: \$5,939.57

e. Investigative Subcommittee Conclusions Regarding HFCC Expenditures For Utilities

Based on the foregoing, the Investigative Subcommittee found substantial reason to believe that, at the direction of Representative Hilliard, during the period approximately October 1993 through December 1994, HFCC subsidized private corporations owned and controlled by Representative Hilliard and members of his family by paying utility expenses incurred by those corporations in connection with their occupancy of 1612-1614 3rd Avenue North. The record indicates that at least during the aforementioned time period, no occupant of the building other than HFCC made payments to Alabama Power Company, Alabama Gas Company, Birmingham Water Works, and South Central Bell for services provided with respect to the building located at 1612-1614 3rd Avenue North.¹¹⁸ In total, HFCC made expenditures of over \$11,000 to these utility companies for which HFCC received no reimbursement from any of the other occupants of the building used by HFCC.

In addition, based on the evidence regarding HFCC expenditures for utilities from October 1993 through December 1994, the Investigative Subcommittee also concluded that the March 5, 1998 statement made by Representative Hilliard's counsel that each occupant of the 1612-1614 3rd Avenue North "paid its own overhead and rent" during the period that HFCC also occupied space in that building, and that the additional April 2, 1998 statement by counsel for Representative Hilliard that HFCC "had separate utilities with respect to occupancy of the rental at 1612 3rd Avenue North and paid them," were false or misleading statements with respect to the stated period of time.

4. Conclusions Of Investigative Subcommittee Regarding HFCC Expenditures Relating To Use And/Or Occupancy Or Purported Use And/Or Occupancy Of Office Space By HFCC

As set forth clearly and succinctly in the Statement of Alleged Violation adopted by the Investigative Subcommittee that was admitted to by Representative Hilliard, during approximately 1993 through 1996 (*Exhibits 1 and 2*), Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by Representative Hilliard in excess of reimbursement for legitimate and verifiable campaign expenditures and expended by Representative Hilliard for purposes not attributable to bona fide campaign or political purposes.

This conduct included (1) the expenditure of \$8,000 of HFCC funds to pay rent owed pursuant to a lease Representative Hilliard guaranteed for the American Management and Marketing Corporation in Montgomery, Alabama; (2) expenditures for rent substantially in excess of fair market value by HFCC made to a Section 501(c)(3) corporation, operated and controlled by members of Representative Hilliard's family, which in turn transmitted these rent expenditures to a corporation owned and controlled by Representative Hilliard and members of his family; (3) expenditures for rent by HFCC substantially in excess of fair market value made directly to corporations owned or controlled by Representative Hilliard and members of his family; and (4) the expenditure of HFCC funds to pay utility expenses incurred by corporations owned or controlled by Representative Hilliard and members of his family.

In the manner described above, Representative Hilliard violated Clause 6 of former House Rule 43. Moreover, the Investigative Subcommittee determined that the pattern and practice of conduct by Representative Hilliard, as delineated above and in the Statement of Alleged Violation, was severe enough to reflect discredit on the House of Representatives and therefore, was in violation of Clause 1 of former House Rule 43.

III. RESULTS OF INQUIRY REGARDING CONDUCT NOT CHARGED IN STATEMENT OF ALLEGED VIOLATION

A. Representative Hilliard's Compliance With Financial Disclosure Requirements During The Period 1992-1999 Regarding Ownership Interests In Certain Corporations

1. Background

Pursuant to the provisions of Title I of the Ethics in Government Act of 1978, Members of Congress are required to file financial disclosure reports in accordance with the provisions of that Act. See 5 U.S.C. § 101, *et seq.* Moreover, former House Rule 44, Clause 2 (current House Rule 26), provides that "the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives." According to the statute, each report filed "shall include [*inter alia*] a full and complete statement with respect to" *

* * "[t]he source, type, and amount or value of income . . . from any source (other than from current employment by the United States Government," as well as * * * "[t]he identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year[.]" 5 U.S.C. §§ 102(a)(1)(A) and 102(a)(3).

Pursuant to 5 U.S.C. § 104(a) of the Ethics in Government Act, "[t]he Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to report any information that such individual is required to report pursuant to Section 102 [of the Act]. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000."

The Investigative Subcommittee was charged with investigating Representative Hilliard's compliance with financial disclosure requirements during the period of 1992-1999 regarding ownership interests in Hilliards & Company, Inc. and the Birmingham Greater Golf Associates, Inc. or its successor, Birmingham Recreation, Inc. In brief, the issue to be resolved by the Investigative Subcommittee was whether Representative Hilliard's interest in either of those assets had a fair market value of more than \$1,000 during any year during the period 1992-1999. As explained below, while it was concerned about certain facts learned during its investigation, the Investigative Subcommittee did not find substantial reason to believe that Representative Hilliard violated any law, regulation, rule or other standard of conduct with respect to this issue.

2. Hilliards & Company, Inc.

A review of Representative Hilliard's financial disclosure statements revealed that he disclosed a joint interest in Hilliards & Company, Inc. with a valuation of "none" in a July 1992 amendment to his candidate's financial disclosure statement filed in May 1992, but did not subsequently disclose any ownership interest in that asset until May 1996, when he filed his financial disclosure statement for 1995. In May 1997, Representative Hilliard filed his financial disclosure statement for 1996, but did not disclose any ownership interest in Hilliards & Company, Inc. in that filing. Thereafter, on December 1, 1997, Representative Hilliard filed an amendment to his financial disclosure statements covering the years 1992 through 1997 to report a 32% interest in Hilliards & Company, Inc. valued at \$100,001 to \$250,000 for each of those years.¹¹⁹ In May 1998, however, Representative Hilliard filed another amendment to his financial disclosure statement declaring that his December 1, 1997 amendment was incorrect and that he should not have reported Hilliards & Co., Inc. as an asset for 1992 through 1997. Thereafter, for the 1998 and 1999 reporting years, Representative Hilliard disclosed a 30.5% interest in American Trust Corporation "by virtue of Hilliards & Company owning 100% of [American Trust Corporation]." The valuation of this asset was reported for 1998 to be \$15,001 to \$50,000. For 1999, Representative Hilliard valued his share of this asset at \$50,001 to \$100,000. *Exhibit 55.*

As previously noted (*supra* p. 36), Hilliards & Company, Inc. is 100% owned by Representative Hilliard and members of his family. At all times relevant to this matter, Representative Hilliard owned 30.48% of the entity, and his wife, Mary Hilliard owned 14.47% of the entity. Also as previously noted, Hilliards & Company, Inc. at least through 1999, owned 100% of American Trust Corporation and

American Trust Communications Corporation, and at least through July 1996, it owned 100% of American Trust Life Insurance Company. In addition, Hilliards & Company, Inc. reported to state insurance regulators that it also owned American First Bonding Corporation. Hilliards & Company, Inc. also had a 100% interest in other entities that were operating businesses at various points from 1992 through 1999, including American Trust Travel Agency and American Advertising Agency. Through its ownership of American Trust Corporation and American First Bonding Corporation, Hilliards & Company, Inc. also had a minority stake in American Management and Marketing Corporation. *Exhibit 16.*

To investigate the matter of Representative Hilliard's ownership in Hilliards & Company, Inc., the Investigative Subcommittee authorized subpoenas for any and all documents and records relating to assets and liabilities of that company, as well as for American Trust Corporation, ATLIC, American Trust Communications Corporation, and other corporations or entities that information in the possession of the Investigative Subcommittee indicated that they were owned by Hilliards & Company, Inc. Subpoenaed records included, but were not limited to, annual financial statements, statements of net worth, filings with the Internal Revenue Service, and any documents relating to the book value of these corporations. *Exhibits 65 and 66.* For each entity, the Investigative Subcommittee also subpoenaed records from banks and other financial institutions that held accounts in the name of each of these entities.

The Investigative Subcommittee obtained financial records related to ATLIC from the Receivership Division of the State of Alabama Department of Insurance, and also obtained public filings by the corporations at issue made with the State of Alabama Department of Insurance and with the Federal Communications Commission. Relevant financial data was also sought from Representative Hilliard and was also obtained from filings made by Representative Hilliard with the Alabama Ethics Commission and other government agencies.

Following its examination of the record, it was the conclusion of the Investigative Subcommittee, that the financial records produced to the Investigative Subcommittee from Representative Hilliard and from corporate entities owned and controlled by Representative Hilliard and members of his family, were, at best, poorly maintained, incomplete, and, based on a comparison of bank records and company ledgers, often inaccurate. The Investigative Subcommittee's examination of whether Representative Hilliard complied with the rules governing disclosure of assets was hindered by the poor quality of records produced by him.

Of note, prior to the formation of the Investigative Subcommittee, Representative Hilliard provided to the Committee on Standards of Official Conduct, a copy of a sworn statement from James Wright, who represented in his statement that he "was the licensed bookkeeper who has been responsible for preparing corporate financial records for Hilliards & Company, Inc." Mr. Wright also stated that "for the calendar years 1992 through 1997 inclusive, Hilliards & Company had a negative book value which was reflected in forms filed with the Internal Revenue Service." *Exhibit 67.* The Investigative Subcommittee issued a subpoena for financial documents and records to Mr. Wright that would support his sworn statement. Unfortunately, because Mr. Wright was recovering from a stroke, he was unable to comply with the Investigative Subcommittee's subpoena for records, and when contacted by Investigative Subcommittee staff he stated he had no memory of his work for Representative Hilliard or of signing the statement that was submitted by Representative Hilliard to the Committee on Standards of Official Conduct. Indeed, the Investigative Subcommittee subsequently learned that Mr. Wright was a victim of a stroke prior to the signing of the statement that ultimately was submitted to the Committee. The Investigative Subcommittee was unable to determine based on interviews with Mr. Wright and his spouse whether Mr. Wright possessed the physical and mental ability to draw the conclusions contained in his statement and, if he did not possess the aforementioned ability, who enabled the production of the statement he signed. Due to the circumstances presented, the Investigative Subcommittee was not able to ascertain from Mr. Wright or Representative Hilliard whether Mr. Wright ever possessed the knowledge or qualifications to make the assertions contained in Mr. Wright's sworn statement.

In light of Mr. Wright's statement, however, that "Hilliards & Company had a negative book value which was reflected in forms filed with the Internal Revenue Service," the Investigative Subcommittee sought to obtain those tax documents. Such filings were encompassed within the document subpoenas from the Investigative Subcommittee to Representative Hilliard, yet only limited tax filings were produced pursuant to those subpoenas, and those filings were limited to 1994 and 1995 tax filings of

American Trust Corporation. Accordingly, by letter dated December 29, 1999, the Investigative Subcommittee asked that Representative Hilliard authorize the Investigative Subcommittee to obtain relevant tax filings directly from the Internal Revenue Service and the Alabama Department of Revenue.

Exhibit 68. On October 3, 2000, nine months after the Investigative Subcommittee's initial request,¹²⁰ Representative Hilliard authorized the Investigative Subcommittee to obtain tax filings from the Internal Revenue Service and the Alabama Department of Revenue for three corporations: Hilliards & Company, Inc., American Trust Corporation, and American Trust Communications Corporation.

Following Representative Hilliard's authorization, the Investigative Subcommittee did obtain copies of federal and state tax filings from the Alabama Department of Revenue and the Internal Revenue Service for Hilliards & Company, Inc. for the tax years 1994 to 1998, and for American Trust Corporation for tax years 1994, 1995, and 1998. Tax returns of Hilliards & Company, Inc. were not on file for tax years 1992 and 1993; and tax returns of American Trust Corporation were not on file for tax years 1992, 1993, 1996, and 1997. Although Representative Hilliard completed an authorization for the Investigative Subcommittee to obtain tax filings for American Trust Communications Corporation from the Alabama Department of Revenue and the Internal Revenue Service, those agencies had no tax filings on file for that corporation. It appeared from the face of tax returns on file with the Alabama Department of Revenue and the Internal Revenue Service, that *all* of the aforementioned tax returns were filed by Representative Hilliard *after* the date of the Investigative Subcommittee's request for those returns. For example, the 1994 and 1995 federal and state tax returns of American Trust Corporation apparently were signed by Representative Hilliard on March 21, 2000.¹²¹ The 1998 federal and state tax returns for that corporation apparently were signed by Representative Hilliard on September 11, 2000. The aforementioned 1994, 1995, 1996, 1997, and 1998 tax returns of Hilliards & Company, Inc. apparently were signed by Representative Hilliard on December 29, 1999.

Representative Hilliard provided no explanation to the Investigative Subcommittee as to why he did not disclose to the Investigative Subcommittee that tax returns for Hilliards & Company, Inc. and other corporations owned and controlled by him and his family had not been filed more timely, or why he declined simply to furnish copies of the recently filed tax returns to the Investigative Subcommittee. Instead, Representative Hilliard required the Investigative Subcommittee to go through the exercise of obtaining the documents from the Internal Revenue Service or Alabama Department of Revenue. The apparent delay in filing of the aforementioned tax returns until 1999 and 2000 also calls into question the accuracy of assertions contained in the sworn statement of James Wright submitted on behalf of Representative Hilliard. As noted (*supra* p. 72), Mr. Wright stated under penalty of perjury that "for the calendar years 1992 through 1997 inclusive, Hilliards & Company had a negative book value *which was reflected in forms filed with the Internal Revenue Service.*" (Emphasis added). **Exhibit 67.** Yet, based on the records obtained by the Investigative Subcommittee, it appears that such filings did not exist as of the date of Mr. Wright's statement.

In any event, the tax returns of Hilliards & Company, Inc. purport to disclose an entity with little or no income. Of the tax returns obtained by the Investigative Subcommittee regarding this corporation, none report any taxable income. Based on the financial information regarding his corporations furnished to the Investigative Subcommittee from Representative Hilliard, however, the Investigative Subcommittee could not discern what financial data and records were relied upon to prepare the tax returns.

The tax returns of American Trust Corporation were similarly not a reliable means to draw conclusions as to the net worth of Hilliards & Company, Inc. For example, the 1995 federal income tax return of American Trust Corporation, a corporation that according to its tax returns uses a cash method of accounting, reported a loss for the corporation of \$2,312 after deductions taken from a reported gross income of \$110,473. Yet, based on a review by the Investigative Subcommittee, the deposits for that year into the bank account of American Trust Corporation at SouthTrust Bank in Birmingham totaled approximately \$122,862. Based on this data, American Trust Corporation may have understated its 1995 taxable income.

Similarly, the 1994 federal income tax return of American Trust Corporation reported gross receipts for the entity of \$30,887. According to the corporate bank records, however, on January 5, 1994, the entity deposited a check in the amount of \$86,100 that contained the notation "Commission - George D. Leos Sale to City of Birmingham." **Exhibit 70.** Under the cash basis of accounting for taxes (the method used by American Trust Corporation), cash is recorded when it is actually received or paid out. This is in

contrast to accrual accounting where funds are recorded in the tax accounting records when the money is owed by another party (accounts receivables) or a debt is paid off (accounts payables). Thus, using the cash basis method of accounting, it appeared from the records obtained by the Investigative Subcommittee that the gross receipts reported on the 1994 tax return of American Trust Corporation should have been at least \$86,100, or at least \$55,000 more than reported. In addition, a schedule attached to the 1994 tax return detailing \$49,055 in "Other deductions" reports a commission paid of \$25,000. According to American Trust Corporation records obtained from SouthTrust Bank, the corporation issued check number 1088 on January 4, 1994 for \$25,000 to Earl F. Hilliard. The bank records also showed that American Trust Corporation issued check number 1098 on January 21, 1994 for \$25,000 to John R. Hilliard. *Exhibit 70*. While the receipt of income in the form of an \$86,100 commission may have been indicative that American Trust Corporation was an enterprise with a positive net worth, taken in their totality with other records obtained by the Investigative Subcommittee, the tax return information obtained was not a reliable means to conclude whether Representative Hilliard complied with the rules governing disclosure of assets with respect to Hilliards & Company, Inc.¹²²

Other documents obtained by the Investigative Subcommittee provided indications of the net worth of Hilliards & Company, Inc. For example, an Insurance Holding Company System Registration Statement filed on or about January 14, 1995 with the State of Alabama Department of Insurance by Hilliards & Company, Inc. contains a personal financial balance sheet of Representative Hilliard. The balance sheet was signed by Representative Hilliard and lists Hilliards & Company, Inc. as a personal asset with a value of \$100,000. *Exhibit 28*. The Investigative Subcommittee was not able to ascertain the basis on which Representative Hilliard valued his holdings in Hilliards & Company, Inc. as set forth in his personal financial balance sheet. As already noted, Representative Hilliard signed and submitted another balance sheet, dated March 1, 1996, in connection with the leasing of 128 Lee Street in Montgomery, Alabama, by the American Management and Marketing Corporation. This balance sheet lists an unspecified "Stock" as an asset with a value to him of \$183,000. *Exhibit 21*. The Investigative Subcommittee was not able to ascertain whether the stock on this balance sheet refers to Hilliards & Company, Inc., but an examination of Representative Hilliard's financial disclosure statements did not disclose any stock assets of Representative Hilliard other than Hilliards & Company, Inc. and Greater Birmingham Golf Association, Inc. at that time.¹²³

Additional documents obtained by the Investigative Subcommittee appeared to place a value on certain assets owned by Hilliards & Company, Inc. For example, minutes of an April 14, 1995 board meeting of Hilliards & Company, Inc. attended by Representative Hilliard and members of his family, and other documents from the files of the Receivership Division of the State of Alabama Department of Insurance discuss selling 80% of shares of ATLIC to the Conference of National Black Churches for \$505,000. *Exhibit 71*.¹²⁴ In addition, a signed stock purchase agreement in the Receivership Division files dated June 5, 1995 memorializes an apparent agreement between Hilliards & Company, Inc. and Joseph Global Financial Services Group for the latter to purchase 100% of shares of ATLIC from the former for \$600,000. *Exhibit 72*. Another stock purchase agreement dated January 22, 1996 appears to memorialize the sale of ATLIC by Hilliards & Company, Inc. to Sarah Maxwell for \$650,000. *Exhibit 73*.

John Hilliard was questioned under oath by the Investigative Subcommittee about these apparent attempts to sell ATLIC. Even though the stock purchase agreements were signed by John Hilliard as President of American Trust Corporation and Hilliards & Company, Inc., John Hilliard testified that he did not remember or did not know how the sales price of ATLIC was derived in each of the documents memorializing the sale of ATLIC. Although bank records and testimony of other witnesses indicated that John Hilliard was centrally involved in ATLIC activities, John Hilliard testified that he could not recall details regarding these attempts to sell ATLIC:

Q Okay. This is an agreement providing for the sale of stock in the life insurance company to this entity Joseph Global Financial Services Group in or around June of 1995; is that correct?

A I remember something of that nature.

Q If you look at the last page of the exhibit --?¹²⁵

A I saw it.

Q There is a seller's block and a purchaser's block. Is that your true signature in the seller's block?

A Yes.

Q In your capacity as president of the life insurance company?

A Right.

Q How did this agreement come about?

A If I can remember, I think there was a group who was interested in purchasing, but it fell through, and I don't think anything ever happened. That is about as much as I remember about that. If my memory serves me right, I just don't recall the rest of it.

Q And if you look at page 4, the purchase price was going to be as handwritten in the number \$600,000, or \$605,000 as printed. Do you recall a plan to sell the stock of the life insurance company for approximately \$600,000?

A I recall some talk to do that.

Q You recall some talk. This is an agreement that you signed.

A I remember it, but it never happened.

Q How did this come about?

A I don't know. A group was interested, they came and looked at the company, and they -- I think, it was so long ago, they were some kind of financial group, and it just never materialized.

Q How was the stock valued, at least for purposes of this possible transaction, at roughly \$600,000?

A I don't know.

Q Do you have any knowledge as to where the figure of \$600,000 came from?

A No, I don't.

Q Even though you initialed on page 4 opposite the handwriting \$600,000.

A I don't remember. I really don't.

Q Did you discuss this proposed transaction with Congressman Earl Hilliard?

A It is possible.

Q Who did you discuss the transaction with?

A I think probably the board members, you know, staff, possibly Congressman Hilliard. I mean, there was a whole lot of people we talked to during that time. You can ask him. He would know.

Q Who is Minister Joseph?

A I don't know. I don't know anything about him.

Q Well, his initials also appear to be throughout this document.

A Right. He was a guy who appeared, who said he was interested in buying it.

Q Did he live in Birmingham?

A I don't know where he is from. I don't know where he lives. I haven't heard from him, haven't seen him.

Q Did you meet him?

A I met him that time, at that particular point.

Q Where did you meet him?

A I met him at American Trust Life Insurance's office.

Q Was anybody else present for that meeting?

A I don't remember.

Q Why was the life insurance company interested in selling all of the stock of the company?

A You know, we wanted to move on. Heck, I really don't know.

Q Did it have anything to do with generating cash or proceeds to prevent the company from going into receivership?

A Possibly.

Q Do you recall any discussion about ways in which to avoid receivership?

A No.

Q Was not there an effort under way to avoid the [fate] of receivership?

A There was some talk about trying to sell the company if they could find some interested parties who was interested, and there are people, I guess, such as those folks who came to the table. But now why they didn't go through with it; I don't know.

Q Do you recall any meetings associated with this near-purchase by

Sarah Maxwell?

A We called meetings around all of the offers we got.

Q Do you recall attending a meeting with Sarah Maxwell?

A I believe I do.

Q How did Sarah Maxwell come to the attention of the American Trust Life Insurance Company?

A I don't recall.

Q And this document on the last page indicates that you are the president of Hilliards & Company.¹²⁶ Is that a correct representation?

A That is possible.

Q Are you still the president of Hilliards & Company?

A No, not to my knowledge. No.

Q When did you become president of Hilliards & Company?

A I don't remember.

Q Do you ever recall someone telling you that you should be president of Hilliards & Company?

A At one point.

Q The purchase price for American Trust Life Insurance Company in Exhibit Number 25¹²⁷ for \$650,000, in your estimation, is that the fair market value of the American Trust Life Insurance Company at that time?

A Possibly. There was just so much happening at that time, I don't remember.

Q This transaction was only just over 4 years ago.

A Yes. As I said before, there was a lot going on. I don't remember.

Q What was the process for calculating the value of the American Trust Life Insurance Company?

A I don't know.

Q Well, as an officer of that company, how would you direct someone to find out the value of the company?

A If I wanted to know, I would hire an appraiser, someone who knew something about it.

Q Was that what happened in this case?

A I don't know. I don't remember.

Q Might it have happened?

A Possibly.

Q Who would have made that decision?

A Maybe the board, maybe someone in the company, maybe me. I just don't remember.¹²⁸

Ultimately, the Investigative Subcommittee did not credit the sales documents it obtained as accurately reflecting the fair market value of ATLIC. First, none of these sales were ever completed. Moreover, the Investigative Subcommittee took notice of the fact that far from being an asset of considerable worth, the finding of the State of Alabama Department of Insurance was that as of December 31, 1994, ATLIC was insolvent.¹²⁹ *Exhibit 9.*

There were other indications that the entity may have had a reportable value during the relevant time period. For example, American Trust Corporation, which was owned by Hilliards & Company, Inc., had sufficient assets to issue checks to cash for amounts in thousands of dollars that were cashed by Representative Hilliard. *Exhibit 75.* In addition, the bank records of American Trust Corporation indicate that it had assets to pay other personal expenses of the Hilliard family, such as payments towards the credit card debt of Mary Hilliard. *Exhibit 76.* In addition, in an October 24, 1994 filing with the Federal Communications Commission regarding the WIQR radio station it had purchased, American Trust Corporation reported that it had "sufficient net liquid assets [] on hand or [] available from committed resources to consummate the transaction and operate the facilities for three months." *Exhibit 77.* Reports of the State of Alabama Department of Insurance dated June 12, 1991 and August 11, 1995 also refer to a \$120,000 certificate of deposit purchased by ATLIC in June 1988, the disposition of which state examiners were not able to verify. *Exhibit 9 and Exhibit 31.* An asset of this size would impact the net worth of ATLIC, and therefore Hilliards & Company, Inc., if still held during the time period under review by the Investigative Subcommittee.¹³⁰

Despite the efforts of the Investigative Subcommittee in this matter, the state of the records obtained from Representative Hilliard's corporations left the Investigative Subcommittee unable to draw any conclusion as to the fair market value of Representative Hilliard's ownership interest in Hilliards & Company, Inc. Since it could not reach a determination as to whether Hilliards & Company, Inc. was an asset with a value for which Representative Hilliard had a reportable ownership interest, the Investigative Subcommittee was not able to conclude whether Representative Hilliard complied with his financial disclosure requirements regarding this asset. To the extent that some evidence of a reportable value of Hilliards & Company, Inc. was revealed during the investigation, the Investigative Subcommittee ultimately determined the evidence was insufficient to support a finding of a violation. The failure of Representative Hilliard to keep and maintain records in a state sufficient to support his financial disclosure statements arguably could justify a separate finding that Representative Hilliard violated the Code of Conduct for Members of the House of Representatives. The Investigative Subcommittee, however, viewed this issue as outside the scope of its limited jurisdiction. Notwithstanding the finding of the Investigative Subcommittee on this issue, Representative Hilliard may yet need to amend financial disclosure statements regarding Hilliards & Company, Inc. and should do so, if necessary, after seeking guidance from the Committee on Standards of Official Conduct regarding his obligations on this subject. In all future filings, Representative Hilliard should be prepared to support, document, and justify fully all disclosures and non-disclosures on his financial disclosure statements.

3. Birmingham Recreation, Inc.

On or about April 13, 1987, Birmingham Greater Golf Associates, Inc. was incorporated under the laws of the State of Alabama. On or about January 3, 1993, the articles of incorporation of the corporation were amended to change the name of the entity to Birmingham Recreation, Inc. At

times, the corporation also operated under the name Greater Birmingham Golf Associates. From the date of its inception until the date Birmingham Recreation, Inc. ceased activity, 18% of the shares of the corporation were owned by Representative Hilliard, with the remaining shares divided among five other persons, none of which are members of Representative Hilliard's family. Of the shareholders, no one shareholder owned more than 18% of the shares of the corporation. The business of Birmingham Recreation, Inc. involved the ownership and operation of a golf course and golf shop.

While Representative Hilliard did not initially report any interest in Birmingham Greater Golf Associates, Inc. for the years 1992 through 1996, in December 1997, he filed an amendment to report an 18% interest in that corporation for the years 1992 through 1997, valued each year at \$15,001 to \$50,000. In May 1998, however, Representative Hilliard filed another amendment to his financial disclosure statements for 1992 through 1997 advising that his December 1997 amendment was incorrect and that Birmingham Greater Golf Associates, Inc. should not have been reported for those years. *Exhibit 55.*

The investigative steps undertaken by the Investigative Subcommittee related to this subject included subpoenaing any and all documents and records related to assets and liabilities of Birmingham Recreation, Inc. Subpoenaed records included, but were not limited to, annual financial statements, statements of net worth, filings with the Internal Revenue Service, and any documents relating to the book value of the corporation. *Exhibit 65.*

In response to the subpoena requesting documents reflecting the value of Birmingham Recreation, Inc., Representative Hilliard furnished complete copies of federal and state tax filings for Birmingham Recreation, Inc. and its predecessors. While these filings were not determinative of the book value of this corporate entity, the 1995 return revealed that Representative Hilliard received a distribution of \$3,578 during that tax year, the only year for which the corporation had any taxable income. This income was not disclosed on any financial disclosure report filed by Representative Hilliard. Another document produced by Representative Hilliard pursuant to subpoena was a letter he wrote to his counsel, Ralph L. Lotkin, dated April 9, 1997, but signed April 9, 1998. In the two-sentence letter, Representative Hilliard stated as follows:

I am a partner in Birmingham Greater Golf Associates, Inc. In response to your request, please be informed that for the calendar years 1992 through 1997 inclusive, Birmingham Greater Golf Associates, Inc. had a negative book value which was also reflected in forms filed with the Internal Revenue Service.¹³¹

At the bottom of the letter, Representative Hilliard affirmed under penalty of perjury that the foregoing statement was true and correct. The letter did not explain how Representative Hilliard was able to ascertain the book value of this corporate entity from forms filed with the Internal Revenue Service. In particular, as shown, the 1995 tax filing revealed that Rep. Hilliard did earn income from the entity in 1995, even if there were losses in other years. *Exhibit 78.*

Other documents were obtained from Pearce, Bevell, Leesburg, Moore, P.C. of Birmingham, Alabama, the accounting firm engaged by Birmingham Recreation, Inc. During the course of the accounting firm's work for the corporation, the firm prepared financial statements for each of the years 1992 through 1995, and also prepared working trial balances for each the years 1992 through 1998; these documents were obtained by the Investigative Subcommittee. These documents indicated that net liabilities of the corporation in each of the years 1992 through 1998 greatly exceeded the amount of assets of the corporation.¹³² *Exhibit 79.*

In addition, from the attorney for the corporation, J. Gusty Yearout, of the law firm of Yearout, Myers & Traylor, P.C., and from Charles "Bubba" Major, one of the founding shareholders of the corporation, the Investigative Subcommittee learned that Birmingham Recreation, Inc. had not

been in business since some point in 1998.

On the basis of the information obtained, the Investigative Subcommittee concluded that there was not substantial reason to believe that Representative Hilliard's conduct with respect to the reporting of his ownership interest in Birmingham Recreation, Inc. violated any law, regulation, rule or other standard of conduct applicable to him. While the record before it clearly indicated that Representative Hilliard was required to have reported on his financial disclosure statements his income from the corporation in 1995, this omission was not within the limited jurisdiction of the Investigative Subcommittee. Representative Hilliard, however, should amend his financial disclosure statement for 1995 consistent with this Report.

B. HFCC Loans Or Other Disbursements To The Alabama Film And Entertainment Council In 1993

On or about September 7, 1993, an entity known as the Alabama Film and Entertainment Council made an expenditure of \$4,000 to ATLIC for rent. Following expansion of its jurisdiction by the Committee on Standards of Official Conduct, the Investigative Subcommittee was charged with investigating whether HFCC was the source of funds of this disbursement to ATLIC, and whether the \$4,000 disbursement was merely another method utilized by Representative Hilliard and HFCC to convert HFCC funds to personal use, in violation of House Rules. With respect to this issue, the Investigative Subcommittee determined there was not a sufficient basis to allege a violation by Representative Hilliard of any law, rule, regulation, or other standard of conduct applicable to him. The findings of the Investigative Subcommittee on this issue are set forth below.

On or about August 26, 1993, the Alabama Film and Entertainment Council was incorporated under the laws of the State of Alabama. *Exhibit 80*. The incorporation papers stated that this entity was a corporation organized under Section 501(c)(3) of the Internal Revenue Code. As set forth in the original articles of incorporation of this entity, the sole incorporator of the Alabama Film and Entertainment Council was Mary Hilliard, the spouse of Representative Hilliard. The Board of Directors of this Corporation included Mary Hilliard, Elvira Williams, and Toni Motley.¹³³ The Alabama Film and Entertainment Council shared the same post office box utilized by HFCC, which was also the same post office box utilized by ATLIC, American Trust Corporation, American First Bonding Corporation, the African American Institute, and other entities, and by Representative Hilliard for his personal mail.¹³⁴ The operations and activities of Alabama Film and Entertainment Council after its incorporation were unclear, although Representative Hilliard (through counsel) represented that the entity "was merged into [African American Institute] and operated under its organizational auspices." *Exhibit 51*.

According to reports filed by HFCC with the Federal Election Commission, HFCC made approximately five disbursements to the Alabama Film and Entertainment Council totaling approximately \$5,450 in July and August 1993 as follows: a \$1,650 disbursement made on or about July 9, 1993 (listed as a loan when reported initially in Federal Election Commission reports); a \$2,900 disbursement made on or about August 9, 1993¹³⁵ (listed as a loan when reported initially in Federal Election Commission reports); a \$400 disbursement made on or about August 19, 1993 (listed as a loan when reported initially in Federal Election Commission reports); a disbursement of \$200 on or about August 27, 1993 (listed as a loan of \$800 when reported initially in Federal Election Commission reports); and a disbursement of \$300 on or about August 30, 1993 (apparently not disclosed in Federal Election Commission reports). *Exhibit 81*. On an amended report filed in July of 1994, each of the foregoing loans to the Alabama Film and Entertainment Council was redesignated as a donation. As indicated by the dates of the "donations," all but \$500 of the "donations" from HFCC was prior to incorporation of the Alabama Film and Entertainment Council.

As noted (*supra* p. 86), on or about September 7, 1993, the Alabama Film and Entertainment Council made a disbursement of \$4,000 to ATLIC for "Rent Jun-Sept." *Exhibit 82*. Despite subpoenas for documents issued to every member of the board of directors of the Alabama Film and Entertainment Council, no formal lease arrangement for leasing of space from ATLIC or documentary evidence of Alabama Film and Entertainment Council operations and activities during 1993 was produced.¹³⁶ Some evidence was adduced that the Alabama Film and Entertainment Council may have operated for a brief period out of a single office within 1614 3rd Avenue North.¹³⁷ Even if, however, the \$4,000 payment by the Alabama Film and Entertainment Council to ATLIC did in fact relate to rent of a single office for the period of June through September 1993, the amount of monthly rent — \$1,000 — substantially exceeded fair market value with a resulting financial benefit to ATLIC.¹³⁸

The lack of evidence of any lease or rental agreement, the related nature of the participants involved, the lack of evidence regarding the use and occupancy of the building by the Alabama Film and Entertainment Council, did raise substantial doubt as to whether the above-described donations by HFCC to the Alabama Film and Entertainment Council were made for any bona fide campaign or political purpose. Nonetheless, while the bank records of the Alabama Film and Entertainment Council obtained pursuant to subpoena confirm that the \$4,000 disbursement to ATLIC could not have been made in the absence of the deposits of HFCC funds, there were other deposits into the account of the Alabama Film and Entertainment Council shortly before this disbursement. Therefore the Investigative Subcommittee could not determine whether the Alabama Film and Entertainment Council was used to transfer the funds from HFCC to ATLIC.

C. Possible Violations Of Law, Rule, Regulation Or Other Standard Of Conduct Arising From Financial Relationships Between, And Transactions Relating To, American Trust Corporation, American Trust Life Insurance Company, Inc., HFCC, And The African American Institute

As described in the Statement of Alleged Violation adopted by the Investigative Subcommittee, this investigation involved a number of complex financial transactions between various private corporations owned and controlled by Representative Hilliard and members of his family, HFCC, and a Section 501(c)(3) organization established by members of Representative Hilliard's family known as the African American Institute ("AAI"). Although the original scope of the Investigative Subcommittee's jurisdiction clearly encompassed certain of these transactions, the scope of jurisdiction was later expanded to encompass other transactions or other consequences of transactions between these entities that may have violated any law, regulation, rule or standard of conduct applicable to Representative Hilliard.

1. Causing A Tax-Exempt Organization To Violate The Internal Revenue Code

The Investigative Subcommittee examined whether Representative Hilliard caused AAI to violate the provisions of law governing its status as an organization exempt from federal income taxation by utilizing AAI to further a scheme to convert HFCC funds to personal use and to use campaign funds for a purpose not attributable to any bona fide campaign or political purpose.

Section 501(a) of the Internal Revenue Code generally exempts from federal income taxation numerous types of organizations. 26 U.S.C. § 501(c)(3). Among these are Section 501(c)(3) organizations which include corporations "[o]rganized and operated exclusively for religious, charitable, scientific . . . or educational purposes . . . no part of the net earnings of which inures to the benefit of any private shareholder or individual . . . and which does not participate in, or intervene in a . . . any political campaign on behalf of (or in opposition to) any candidate for public office." 26 U.S.C. § 501(c)(3).

Pursuant to regulations interpreting Section 501(c)(3) of the Internal Revenue Code, an organization does not meet the Section 501(c)(3) requirement that such an organization be organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private purpose. 26 C.F.R. § 1.501(c)(3)-1(d)(1)(ii). Thus, in order to qualify as an exempt organization under 26 U.S.C. § 501(c)(3), "it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." *Id.* Moreover, "[a]n organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals." 26 C.F.R. § 1.501(c)(3)-1(c)(2).

As noted, under the Internal Revenue Code, Section 501(c)(3) tax exempt organizations must be operated exclusively for exempt purposes. 26 U.S.C. § 501(c)(3). In the view of the Investigative Subcommittee, the sale of 1612-1614 3rd Avenue North from ATLIC to AAI, the debt burden placed on AAI as a consequence of the sale, and the use of AAI as a vehicle to convert funds from HFCC to ATLIC, apparently were activities conferring a benefit on the private interests of Representative Hilliard and members of his family. Conferring a benefit on private interests is a non-exempt purpose. 26 C.F.R. § 1.501(c)(3)-1(c)(2). Thus, in the view of the Investigative Subcommittee, in utilizing AAI for private gain, it appeared Representative Hilliard caused AAI to violate the provisions of law governing its status as an organization exempt from federal income taxation.

The Investigative Subcommittee ultimately determined not to pursue an allegation based on Representative Hilliard's possibly causing a tax-exempt organization to violate the law. In brief, the

Investigative Subcommittee determined that the core conduct under investigation, the conversion of campaign funds through expenditures for rent and occupancy of office space — including the use of AAI to accomplish such conversion — was already fully encompassed in other areas of the Statement of Alleged Violation adopted by the Investigative Subcommittee. To pursue this issue further would likely have required new and time-consuming avenues of inquiry.

2. Payment By AAI Of Credit Card Obligations Of Representative Hilliard And His Spouse

The Investigative Subcommittee also examined the payment by AAI of certain credit card debt owed by Representative Hilliard and his spouse, and whether these payments additionally constituted misuse of a tax-exempt organization.

Specifically, during the course of this investigation, evidence was adduced of payments by AAI toward credit card accounts held by Representative Hilliard and his wife Mary Hilliard. For example, as of January 12, 1994, the Corporate/Government Citicorp Diners Club account of Representative Hilliard was past due in the amount of \$10,968.14. *Exhibit 84*. On or about February 1, 1994, AAI made a payment on this account in the amount of \$2,595.76. *Exhibit 85*. On or about May 6, 1994, AAI made another payment on this account in the amount of \$2,000. *Exhibit 85*. No other payments were credited to this account until AAI made a \$300 payment on or about April 5, 1995, which was credited to the account on or about June 22, 1995. *Exhibits 84 and 85*. All these described payments were made during the period in which 1612-1614 3rd Avenue North was legally owned by AAI and during which AAI was collecting \$1,500 per month in rent from HFCC. No evidence was discovered by the Investigative Subcommittee confirming that the described payments by AAI toward the overdue balance on Representative Hilliard's Citicorp Diners Club account were related to AAI activities in which Representative Hilliard may have been involved.¹³⁹ To the contrary, Representative Hilliard, through counsel, represented to the Subcommittee that AAI was an entity with which he had absolutely no involvement.¹⁴⁰ Similarly, the record indicates that AAI made payments in connection with the American Express account of Mary Hilliard, the wife of Representative Hilliard. *Exhibit 86*. Although the Investigative Subcommittee issued subpoenas for documents to every person purportedly involved with AAI or its corporate successor entity, no evidence was discovered that payments to Mary Hilliard's American Express account related to AAI activities for which Mary Hilliard may have been involved.

Despite doubts as to the legitimacy of the AAI expenditures described herein, the Investigative Subcommittee lacked sufficient evidence to find substantial reason to believe that AAI's expenditures for credit card debt owed by Representative Hilliard and his spouse were in violation of a law, rule, regulation, or standard of conduct applicable to Representative Hilliard. Accordingly, under the circumstances presented, the Investigative Subcommittee concluded that there was an insufficient basis to support a finding that a violation by Representative Hilliard had occurred.

IV. CONDUCT OF THE INQUIRY

A. Establishment Of Investigative Subcommittee

On December 3 and 10, 1997, *The Hill* newspaper published several articles regarding certain of Representative Hilliard's business interests, disclosure of those interests on his financial disclosure statements, the use by his campaign committee of a building owned by corporations owned and controlled by Representative Hilliard and members of family, and other matters relating to Representative Hilliard. *Exhibit 87*.

On December 29, 1997, Chairman James V. Hansen and Ranking Minority Member Howard L. Berman of the Committee on Standards of Official Conduct sent a letter to Representative Hilliard, inviting him to respond to the allegations contained in the December 3, and 10, 1997 articles in *The Hill*, and to provide any additional information he desired regarding the articles.¹⁴¹ *Exhibit 88*. Subsequently, by letter dated January 13, 1998, and after an intervening letter from Representative Hilliard's counsel (Ralph L. Lotkin) that raised questions regarding the jurisdiction of the Committee, and a meeting between Mr. Lotkin and Committee staff, the

Committee requested answers to numerous specific requests regarding the allegations contained in articles published in *The Hill*. **Exhibit 89.**

By letter dated January 21, 1998, Representative Hilliard, through his counsel, questioned whether the Committee was inquiring into matters outside the Committee's jurisdiction, including matters which he described as having nothing to do with the exercise of duties or responsibilities of a Member, and conduct prior to Representative Hilliard's tenure as a Member of Congress. These concerns were referenced again by Representative Hilliard's counsel by letter dated January 30, 1998. By letter dated February 6, 1998, Representative Hilliard was advised that the full Committee on Standards of Official Conduct affirmed its jurisdiction over the matters raised in its letter of January 13, 1998, and further granted a three week extension for Representative Hilliard to submit a response to the Committee's substantive questions. By letter from his counsel dated February 6, 1998, Representative Hilliard objected to the Committee's informal fact-finding efforts based on claims that the Committee was improperly inquiring into conduct that occurred before Representative Hilliard became a Member of the House of Representatives, conduct that occurred before the third previous Congress, and conduct described by Representative Hilliard's counsel as unrelated to Representative Hilliard's official duties or responsibilities. **Exhibit 90.** Representative Hilliard's counsel further questioned whether the publication of the articles in *The Hill* was a sufficient basis for the Committee to initiate a informal fact-finding effort. **Exhibit 90.** On March 4, 1998, the Chairman and Ranking Minority Member of the Committee, on behalf of the Committee, transmitted a response to the concerns raised by Representative Hilliard, and in that response the Committee explained the basis on which it could review the allegations raised in the articles in *The Hill*. In brief, the Committee stated that "it has the jurisdiction to investigate allegations of misconduct relating to a successful campaign for election to the House," that the Committee was not barred from investigating an alleged violation which occurred before the third previous Congress if it determined that the alleged violation is directly related to a violation that occurred in a more recent Congress, and that the requests made to Representative Hilliard fell within the parameters of the authority of the Chairman and Ranking Minority Member of the Committee to gather additional information.¹⁴² **Exhibit 91.**

Representative Hilliard's counsel submitted letters dated February 25, 1998, March 5, 1998, and April 2, 1998, responding to the questions submitted to Representative Hilliard by the Committee on January 13, 1998. **Exhibits 49, 50, and 51.** Each of these letters enclosed from supplementary documents.

Chairman Lamar S. Smith and Ranking Minority Member Howard L. Berman of the Committee next submitted questions to Representative Hilliard by letter dated May 12, 1999. **Exhibit 92.** Concerns regarding the continued fact-finding process were raised in letters from Representative Hilliard's counsel dated May 13 and 21, 1999. In brief, Representative Hilliard challenged the validity of the May 12, 1999 letter to him on the grounds that the Committee had not yet published its rules in the *Congressional Record* prior to that date.¹⁴³ By letter dated May 27, 1999 from its Chairman and Ranking Minority Member, the Committee rejected "as without merit" the claims made "regarding the validity of the Committee's rules, and actions taken pursuant to those rules, prior to the publication of the rules in the *Congressional Record*."

By letter dated June 28, 1999, Representative Hilliard submitted a response to the Chairman and Ranking Minority Member of the Committee in which he raised several objections as to the Committee's handling of this matter. **Exhibit 93.** By this letter, Representative Hilliard also advised the Committee that he was choosing not to respond, at that time, to the Committee's pending questions. On July 22, 1999, the Ranking Minority Member of the Committee, with the knowledge and agreement of the Committee Chairman, met personally with Representative Hilliard to discuss this matter and to communicate the Committee's continuing interest in receiving responses to its outstanding questions. This meeting and subsequent communications between Representative Hilliard did not result in resolution of this matter or in the submission of substantive responses to the Committee's pending questions.

A final informal fact-finding effort was made by letter dated August 10, 1999. **Exhibit 94.**¹⁴⁴ Following an exchange of letters between Representative Hilliard's counsel and the Committee, Representative Hilliard declined, again, to respond to the specific issues raised in the August 10, 1999 letter to him. Instead, by letter dated September 7, 1999, Representative Hilliard reiterated his objections regarding the Committee's informal fact-finding effort, and raised additional concerns that he was being treated differently by the Committee than other Members who were the subject of newspaper reports. In a September 15, 1999 response, the Chairman and Ranking Minority Member of the Committee on Standards of Official Conduct stated that Representative Hilliard's September 7, 1999 letter contained numerous inaccuracies and incorrect statements.

Following the review of information obtained during the initial fact-finding process, including the consideration of information and evidence submitted by Representative Hilliard and his counsel, on September 23, 1999, in accordance with Clause 3 of House Rule XI and Rules 15 and 19 of the Rules of the Committee on Standards of Official Conduct, which authorizes the Committee to establish an Investigative Subcommittee on its own initiative, the Committee voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative Earl F. Hilliard. The Investigative Subcommittee was given jurisdiction to determine whether Representative Hilliard violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to: (1) loans reportedly made by Representative Hilliard's campaign committee in 1993-1994 to certain individuals; (2) occupancy of office space in Birmingham, Alabama, by Representative Hilliard's campaign during the period of 1992-1998, including expenditures by the campaign for rent and utilities; and (3) Representative Hilliard's compliance with financial disclosure requirements during the period 1992-1999 regarding ownership interests in Hilliards & Company, Inc. and the Birmingham Greater Golf Associates, Inc. or its successor, Birmingham Recreation, Inc.

In a letter to Representative Hilliard on September 23, 1999, the Chairman and Ranking Minority Member of the Committee informed Representative Hilliard of the formation of an Investigative Subcommittee and the scope of its jurisdiction. Representative Hilliard was also informed in that letter that Representative Rob Portman would serve as Chairman of the Investigative Subcommittee, that Representative Martin Olav Sabo would serve as its Ranking Minority Member, and that the other two members of the subcommittee would be Representative Kenny C. Hulshof and Representative James E. Clyburn. *Exhibit 95*. On the same date, the Committee publicly announced the formation of the Investigative Subcommittee.

B. Expansion Of Jurisdiction

On June 8, 2000, the Investigative Subcommittee voted unanimously to expand the jurisdiction of its inquiry, pursuant to Committee Rule 20(c), to include an inquiry into the following matters:

Whether Representative Hilliard violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to:

1. The use of campaign funds to: (a) pay salaries, wages, or other compensation to Rita Hall (Patterson), Elizabeth Redmond (Turner), and Yolanda Williams during the period of 1992-1996; (b) make loans or other disbursements to the Alabama Film & Entertainment Council in 1993; and (c) make reported expenditures for rent during the period of August through December 1996 in connection with the campaign's use or occupancy of premises in Montgomery, Alabama; and
2. The financial relationships between, and transactions relating to, American Trust Corporation, American Trust Life Insurance Company, Inc., Representative Hilliard's campaign organization, and the African-American Institute, a non-profit corporation under section 501(c)(3) of the Internal Revenue Code.

On June 14, 2000, the full Committee voted unanimously to expand the Investigative Subcommittee's jurisdiction to include these issues. On the same day, the Chairman and Ranking Minority Member of the Committee notified Representative Hilliard of the expansion of jurisdiction pursuant to Committee Rule 27(g)(4). *Exhibit 96*.

A. Carryover Of Investigation To 107th Congress

On March 14, 2001, the Committee voted to carryover this matter regarding Representative Hilliard to the 107th Congress. On the same date, the Chairman and Ranking Minority Member of the Committee reappointed Representatives Portman, Sabo, Hulshof, and Clyburn to the Investigative Subcommittee pursuant to House Rules. *Exhibit 97*. It should be noted that, although the Investigative Subcommittee had completed its investigative work in this matter during the preceding Congress, it was necessary to carryover this matter in order for the Investigative Subcommittee and the full Committee to fulfill their remaining obligations in this matter in accordance with Committee and House Rules.

B. Investigative Process

The Investigative Subcommittee was established on September 23, 1999, and investigated this matter until early November 2000. The Investigative Subcommittee interviewed and deposed witnesses and authorized the issuance of numerous subpoenas. Several witnesses furnished documents, consented to interviews, and submitted sworn statements on a voluntary basis.

In total, the Investigative Subcommittee approved the issuance of approximately 50 subpoenas for documents over the course of its inquiry. In addition to subpoenaed materials, documents were also voluntarily supplied to the Investigative Subcommittee and obtained by the Investigative Subcommittee from public sources such as governmental agencies. More than ten thousand pages of documents were obtained and reviewed by the Investigative Subcommittee in this matter, including thousands of items from banking institutions. Documents were received from Representative Hilliard in his personal capacity, as well as in his capacity as an official of HFCC and of corporations owned and controlled by him and members of his family. Documents were also obtained from HFCC, various banking and financial institutions, corporations owned and controlled by Representative Hilliard and members of his family, utility companies, former staff and officials of ATLIC, realty and accounting firms, and several other relevant sources of information as reflected in this report and accompanying exhibits. Government institutions that supplied documents included the State of Alabama Department of Insurance, the Federal Election Commission, the Federal Communications Commission, the Alabama Ethics Commission, the Alabama Secretary of State Corporations and Elections divisions, the Jefferson County Board of Equalization and Adjustments, the Internal Revenue Service, the Alabama Department of Revenue, and the Jefferson County Judge of Probate.

During its inquiry, the Investigative Subcommittee also formally deposed 11 individuals regarding the inquiry, resulting in approximately 1454 pages of transcribed testimony. Each of the witnesses who were deposed appeared pursuant to subpoena, and each of them were placed under oath pursuant to Committee Rule 20(a) (6). At least two Members of the Investigative Subcommittee were present at all times for all depositions as required by Committee rules, although in fact, three or more Members were present for most of the depositions before the Investigative Subcommittee. In addition, counsel for the Investigative Subcommittee interviewed or otherwise received information from approximately 85 individuals. Each of the interviews were conducted either by telephone or in person at locations other than the offices of the Committee. Several of the telephone interviews were transcribed by a reporter with the consent of the individual being interviewed.

By letters dated January 14, 2000 and January 19, 2000, Representative Hilliard advised the Investigative Subcommittee that he had engaged his personal counsel, Ralph L. Lotkin, to represent the following other individuals who were witnesses in this matter: Elvira Williams, Elizabeth Turner,¹⁴⁵ Rita Hall Patterson, Jacqueline Smith, Carol Allen, John Hilliard, Mary Hilliard, Joyce Bayles, and Toni Motley. *Exhibit 98.*¹⁴⁶ Subsequent to this letter, Representative Hilliard's personal counsel also appeared before the Investigative Subcommittee to represent other witnesses in this matter, including Yolanda Williams and Merriam McClendon. The record indicated that Representative Hilliard or individuals working on his behalf might have acted affirmatively to bring witnesses contacted by the Investigative Subcommittee under the umbrella of representation by Representative Hilliard's counsel. While not now prohibited by Committee Rules, based on its experience in this matter, the Investigative Subcommittee believes that such multiple representation is inimical to the fact-finding process and, therefore, recommends that in the future multiple representation be limited, or prohibited, whether by Committee policy or rule.

As the Investigative Subcommittee neared the completion of its investigatory work, it invited Representative Hilliard to appear before the Investigative Subcommittee and give sworn testimony regarding the matters under investigation. *Exhibit 99.* At the request of Representative Hilliard (through counsel), the Investigative Subcommittee adjusted its schedule in order to receive testimony from Representative Hilliard on dates that both Representative Hilliard and his counsel were available, and the dates of Representative Hilliard's appearance before the Investigative Subcommittee were confirmed in writing a full month in advance of the hearing dates. *Exhibit 100.* On the morning of the first day of Representative Hilliard's scheduled testimony, however, Representative Hilliard appeared, was sworn in, and proceeded to read a prepared statement in which he announced that he refused to testify. Efforts by the Investigative Subcommittee to accommodate Representative Hilliard to obtain his agreement to testify either that day or another were rebuffed by him. Accordingly, although the Investigative Subcommittee believed that Representative Hilliard's testimony would have been helpful, the Investigative Subcommittee determined to proceed in this matter without testimony from Representative Hilliard. *Exhibit 101.*

V. DISCUSSION OF EVENTS RELATING TO STATEMENT OF ALLEGED VIOLATION AND

RESOLUTION OF THIS MATTER**A. Settlement Negotiations And Recommended Sanction**

Beginning in October 2000, at the initiation of the Investigative Subcommittee lengthy discussions were held between the Investigative Subcommittee, through its counsel, with Representative Hilliard's counsel. In December 2000, the Investigative Subcommittee and Representative Hilliard reached mutually agreeable settlement terms; these terms were reaffirmed by the parties during the 107th Congress. The Investigative Subcommittee agreed to adopt the Statement of Alleged Violation in its current form, conditioned on Representative Hilliard's agreement to admit unconditionally to the charges contained in the document. The Investigative Subcommittee never proceeded to Committee Rule 27(c) and therefore never provided any of the evidence upon which it was relying to Representative Hilliard. Rule 27(c) of the Rules of the Committee on Standards of Official Conduct provides that "[n]ot less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt...." By voluntarily electing to settle this matter prior to proceeding to Committee Rule 27(c), Representative Hilliard waived his right to review the documentary evidence the Investigative Subcommittee had obtained in the course of its investigation.

Representative Hilliard and the Investigative Subcommittee agreed that the Investigative Subcommittee would recommend to the full Committee on Standards of Official Conduct that the Committee impose a letter of reproof at the conclusion of its deliberations. Representative Hilliard understood and agreed that although the full Committee would likely give considerable weight to the Investigative Subcommittee's recommendation, the full Committee was by no means obligated to follow that recommendation. Under the settlement agreement, in the event the full Committee declined to impose the sanction of a letter of reproof in this matter, Representative Hilliard would be permitted to withdraw his answer to the Statement of Alleged Violation, in which case the proceedings would revert to regular order under Committee Rules. It was also understood and agreed by Representative Hilliard that in the event that the full Committee declined to impose the sanction of a letter of reproof in this matter and Representative Hilliard withdrew his answer to the Statement of Alleged Violation admitting to the allegations therein, the Investigative Subcommittee retained complete discretion to amend the Statement of Alleged Violation, adopted as a basis for a settlement in this matter, in any manner it deemed appropriate. As a condition of settlement, Representative Hilliard further understood and agreed that neither he nor his counsel would have any role in the drafting of a letter of reproof in this matter, nor would they be permitted to review that document in any form prior to its issuance by the full Committee. Representative Hilliard further agreed that any response he submitted to the Investigative Subcommittee's Report in this matter or to the full Committee would not undermine his admission of the factual allegations contained in the Statement of Alleged Violation.

Representative Hilliard waived his right to an adjudicatory hearing under Committee Rule 24, and on April 5, 2001, Representative Hilliard admitted to the Statement of Alleged Violation adopted by the Investigative Subcommittee. *Exhibits 1 and 2.*

The four Members of the Investigative Subcommittee unanimously agreed that the Statement of Alleged Violation identifies misconduct by Representative Hilliard that violated Clause 6 of former House Rule 43 and that also brought discredit to the House of Representatives, in violation of Clause 1 of former House Rule 43. The four Members of the Investigative Subcommittee also unanimously agreed that, absent a settlement, the violations to which Representative Hilliard admitted constituted the type of serious conduct that could merit the imposition of a reprimand as a sanction; some Members of the Investigative Subcommittee felt that the conduct at issue might merit an even greater sanction. Imposition of a sanction greater than a letter of reproof could be supported by many factors, including the demonstrated systematic and deliberate conversion of campaign funds by Representative Hilliard to personal use, and by what the Investigative Subcommittee found to be the lack of complete cooperation and candor by Representative Hilliard and his counsel during the investigative process.

Nonetheless, after full discussion among and consideration by its Members of alternative resolutions, the Investigative Subcommittee unanimously concluded that the imposition of a letter of reproof, pursuant to a settlement agreement with the Respondent, is an appropriate sanction in this matter. The Members of the Investigative Subcommittee reached this conclusion based in part on the consensus that, regardless of the level of formal sanction recommended, they wished to be absolutely clear that they spoke with one voice regarding

the misconduct of Representative Hilliard.

In concluding that a letter of reproof is an appropriate sanction here, the Investigative Subcommittee also gave considerable weight to that fact that its detailed findings regarding the conduct of Representative Hilliard would be fully, clearly and, most importantly, publicly aired. In addition, as noted, Representative Hilliard will be allowed no say whatever as to the content of the letter of reproof or the Report of the Investigative Subcommittee in this matter. The Investigative Subcommittee also gave due consideration to the fact that Representative Hilliard agreed to admit to all the allegations contained in the Statement of Alleged Violation, and by so doing acknowledged that he violated House Rules and that he engaged in a pattern and practice of conduct that did not reflect creditably on the House of Representatives.

This last phrase – "conduct that did not reflect creditably on the House of Representatives" – is not intended lightly or invoked by rote by the Investigative Subcommittee. The Investigative Subcommittee found that Representative Hilliard's conduct brought discredit to, that is, it dishonored and disgraced, the House of Representatives.

The conclusion of the Investigative Subcommittee to recommend a letter of reproof as the sanction to be imposed in this matter explicitly recognizes that the full Committee will make the ultimate decision as to what sanction is to be imposed. As noted, if the full Committee declines to accept the recommendation of the Investigative Subcommittee, the settlement agreement in this matter may be rendered void and the full Committee may proceed to an adjudicatory hearing.

B. Adoption Of Statement Of Alleged Violation And Subsequent Related Events

On April 4, 2001, at a meeting held in executive session, the Investigative Subcommittee unanimously adopted the Statement of Alleged Violation in this matter, and the Investigative Subcommittee subsequently received Representative Hilliard's answer dated April 5, 2001, admitting to the charges contained in the Statement of Alleged Violation. *Exhibit 2*.

Subsequently, at a meeting held in executive session on April 26, 2001, the four Members of the Investigative Subcommittee met with the Members of the full Committee.¹⁴⁷ At that meeting, the Investigative Subcommittee advised the full Committee that it had negotiated a settlement of the matter with Representative Hilliard and asked that the full Committee consider Representative Hilliard's request for waiver of an adjudicatory hearing. The Investigative Subcommittee further reported to the full Committee that it conducted its proceedings in a bipartisan manner, and that each and every action it had taken throughout the entire investigation (including the authorization of subpoenas for testimony and documents) had been unanimous. The Investigative Subcommittee further notes that it authorized all actions that were undertaken by Investigative Subcommittee counsel in this matter, and throughout this matter provided direction, guidance, and input through regular meetings and contact with its counsel.

The motion to accept Representative Hilliard's waiver of an adjudicatory hearing was unanimously accepted by the 10 Members of the full Committee who were present at the meeting.

¹ In this Report, the House Rules are cited according to the numbering system that was in effect at the time Representative Hilliard became a Member of the House of Representatives and during the period covered by the Statement of Alleged Violation.

² See generally, *House Ethics Manual*, 102d Cong., 2d Sess. (April 1992) at 270-274.

³ *House Ethics Manual*, 102d Cong., 2d Sess. (April 1992) at 271; *In the Matter of Representative E.G. "Bud" Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. (Oct. 16, 2000) at 3G.

⁴ *House Select Comm. on Ethics, Final Report*, H. Rep. No. 95-1837, 95th Cong., 2d Sess. 16 (1979).

⁵ *Investigation of Financial Transactions of Representative Jim Weaver with His Campaign Organization*, H. Rep. 99-933, 99th Cong., 2d Sess. 13 (1986).

⁶ *Id.* The Investigative Subcommittee also notes that pursuant to 2 U.S.C. § 439a, a provision of the Federal Election Campaign Act of 1971

("FECA"), as amended, "[a]mounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office," as well as for other specific purposes delineated in this section of the statute. 2 U.S.C. § 439a. However, "no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." *Id.* The Federal Election Commission ("FEC") has interpreted the "personal use" restrictions in the FECA in a manner that recognizes that candidates have wide discretion in making expenditures for campaign or officeholder activities. *See, e.g.,* FEC Advisory Opinion 1999-1. Nonetheless, preventing the personal use of campaign funds in either a direct or indirect manner also has been a concern of the FEC as reflected in advisory opinions addressing donations or other expenditures by campaign committees to charitable or other organizations in which the candidate or members of his family play leadership roles. *See, e.g.,* FEC Advisory Opinion 1999-1 and FEC Advisory Opinion 1994-8. The FEC has stated that a campaign committee may rent, for campaign use, part of an office building owned by a candidate and members of his family or owned by a corporation owned by a candidate and members of his family, but only "so long as it pays no more than the fair market value." FEC Advisory Opinion 1995-8. It should be noted that notwithstanding the provision of the FECA that may allow such expenditures, Clause 6 of former House Rule 43 (current House Rule 23) prohibits the use of campaign funds to defray ordinary and necessary expenses incurred in connection with holding office. *See House Ethics Manual*, 102d Cong., 2d Sess. (April 1992) at 295-296.

⁷ *Investigation of Financial Transactions of Representative Jim Weaver with His Campaign Organization*, H. Rep. 99-933, 99th Cong., 2d Sess. 13 (1986). *See also Summary of Activities – One Hundred Fourth Congress*, Committee on Standards of Official Conduct, 104th Cong., 2d Sess., H. Rep. 104-886 (January 2, 1997) at 20 (Discussing violation of former House Rule 43, Clause 6, by Representative Charles Wilson arising from his personal loans of funds from his campaign committee. The Committee on Standards of Official Conduct "concluded that Representative Wilson should have been aware of the prohibition of borrowing from campaign funds.").

⁸ *House Ethics Manual*, 102d Cong., 2d Sess. (April 1992) at 272.

⁹ *Id.*

¹⁰ *House Ethics Manual*, 102d Cong., 2d Sess. (April 1992) at 273, *citing In the Matter of Representative Richard H. Stallings*, H. Rep. No. 100-382, 100th Cong., 1st Sess. (1987).

¹¹ *House Ethics Manual*, 102d Congress, 2d Session (April 1992) at 12, *citing* 114 Cong. Rec. 8778 (April 3, 1968). *See also In the Matter of Representative E.G. "Bud" Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. (Oct. 16, 2000) at 9.

¹² Rita Hall Patterson was formerly known as Rita Hilliard and Rita Hall.

¹³ For example, at various times, Rita Hall Patterson was Vice-President of American Trust Life Insurance Company, as well as President of American Trust Corporation. Deposition of Rita Hall Patterson (July 13, 2000) at 78, 102 (hereafter "Patterson Dep."). As discussed in greater detail later in this report, the aforementioned corporations were owned by Representative Hilliard and members of his family other than Rita Hall Patterson.

¹⁴ Patterson Dep. 28, 30.

¹⁵ Patterson Dep. 43-44.

¹⁶ Patterson Dep. 27-28, 49.

¹⁷ Patterson Dep. 49; *Exhibit 3*.

¹⁸ Elvira Williams is formerly known as Elvira Willoughby.

¹⁹ Deposition of Elvira Williams (March 28, 2000) at 22, 214, 215 (hereafter "E. Williams Dep."); *Exhibits 6, 7, and 12*.

²⁰ E. Williams Dep. 35.

²¹ E. Williams Dep. 76.

²² E. Williams Dep. 73.

²³ E. Williams Dep. 85, 86.

²⁴ Deposition of Jacqueline Smith (April 11, 2000) at 22, 25, 26 (hereafter "Smith Dep.").

²⁵ E. Williams Dep. 90-91.

²⁶ The \$800 and \$700 loans were reported to the Federal Election Commission as a single loan of \$1,500 made on March 15, 1994.

²⁷ Smith Dep. 22, 25, 26; E. Williams Dep. 85.

²⁸ Smith Dep. 22, 25, 26.

²⁹ Elizabeth Turner is formerly known as Elizabeth Redmond.

³⁰ Deposition of Elizabeth Turner (March 30, 2000) at 30, 37, 39 (hereafter "Turner Dep.").

³¹ Prior to the formation of the Investigative Subcommittee, Representative Hilliard and the full Committee on Standards of Official Conduct engaged in a series of communications regarding the allegations that eventually lead to the formation of the Investigative Subcommittee. These communications are described in more detail later in this Report. Attached to one communication from Representative Hilliard's counsel dated April 2, 1998 was a list of "Campaign Expenditures To Individuals For Salary, Consulting Fees, Or Reimbursement Of Expenses." See *Exhibit 51*. While the list shows only 28 HFCC expenditures to Elizabeth Turner for salary and/or payroll totaling \$19,113.87, in actuality, based on examination of bank records, HFCC made approximately 36 expenditures totaling approximately \$25,242.30 as noted.

³² The record indicates that HFCC did not hold a policy with Blue Cross Blue Shield, but provided insurance benefits to Ms. Turner through a policy held by ATLIC, American Trust Corporation, and/or American First Bonding Corporation, which were corporations owned and controlled by Representative Hilliard and members of his family. Turner Dep. 75-76; *Exhibit 51*.

³³ Turner Dep. 39, 40, 43, 49, 75.

³⁴ Turner Dep. 109.

³⁵ Quarterly and annual reports and statements filed with the State of Alabama Department of Insurance by ATLIC while Ms. Turner was a paid employee of HFCC list Ms. Turner as an officer of ATLIC, and state that Ms. Turner held the position of Secretary of the Corporation. Ms. Turner signed reports and statements filed with the State of Alabama in her capacity as Secretary of ATLIC. *Exhibits 10 and 11*; Turner Dep. 110-114.

³⁶ Records reviewed also included documents produced by Representative Hilliard relating to the various corporations that occupied 1612-1614 3rd Avenue North, as well as records pertaining to ATLIC obtained from the Receivership Division of the State of Alabama Department of Insurance. Ms. Turner also testified that she did not have any other source of income during her period of employment by HFCC and that she was never paid by ATLIC. Turner Dep. 30, 32, 37.

³⁷ Turner Dep. 119.

³⁸ Turner Dep. 119, 120.

³⁹ Turner Dep. 103, 104.

⁴⁰ The same document identified Earl F. Hilliard as the "contact" for items including "Organization, History, Territory, etc.," "Holding Company Act," "Bonds and Stocks," "Real Estate," "Mortgage Loans," "Agents Accounts," "Miscellaneous Assets," and "Capital Stock." *Exhibit 8*.

⁴¹ On this subject, Ms. Turner testified as follows (Turner Dep. 35):

Q So you interviewed with the Congressman, Congressman Hilliard.

A Right.

Q Did he offer you a job?

A Yes. That was the purpose of the meeting.

Q What job did he offer you?

A With Hilliard for Congress, and he told me what my title would be and the salary and so forth.

Q What did he tell you your title would be?

A Administrative assistant.

Q To the campaign organization?

A Right.

42 Turner Dep. 106, 107, 112, 114. See also **Exhibit 13**. Representative Hilliard instructed Ms. Turner as to what bills should be paid on behalf of companies operating in the building and directed her to prepare financial reports for ATLIC. In addition, on the first day of each month, she was required to have a list of all outstanding bills for each company to be presented to Representative Hilliard for his review. Turner Dep. 106, 112, 114.

43 Turner Dep. 106. The reference to "Elvira" in Ms. Turner's testimony was to Elvira Williams, the district director of Representative Hilliard's office in Birmingham, Alabama. Ms. Williams was also an officer of ATLIC during the time that Ms. Turner was employed by HFCC. At various times, Ms. Williams held the position of secretary and treasurer of ATLIC and, like Ms. Turner, signed quarterly reports and annual statements of ATLIC filed with the State of Alabama Department of Insurance. E. Williams Dep. 228, 229; **Exhibits 10, 11, and 12**.

44 Turner Dep. 125.

45 Turner Dep. 96, 109.

46 Deposition of Yolanda Williams (May 11, 2000) at 13 (hereafter "Y. Williams Dep.") (Witness describing her position as that of secretary.); **Exhibit 51** (Document submitted on behalf of Representative Hilliard describes Ms. Williams' position as office manager.).

47 Turner Dep. 49, 108-112.

48 Y. Williams Dep. 13.

49 Y. Williams Dep. 13, 14, 31.

50 Y. Williams Dep. 15, 16, 17, 79-83.

51 Y. Williams Dep. 48; Deposition of Carol Allen (April 4, 2000) at 76-77 (hereafter "Allen Dep.").

52 Allen Dep. 9, 27. Yolanda Williams was listed as treasurer of ATLIC, secretary of American Trust Corporation, American Trust Corporation, and American First Bonding Corporation, and as a director of Hilliards & Company, Inc., according to a 1993 list of "Board Of Directors And Officers" of those companies. **Exhibit 6**.

53 Ms. Williams testified that it was her understanding that she was paid separately by ATLIC, HFCC, and AAI for the work she performed for those entities while working at 1612-1614 3rd Avenue North. Y. Williams Dep. 35. No evidence was adduced from bank records of those entities that Ms. Williams received salary from any of the entities that operated within 1612-1614 3rd Avenue North other than HFCC.

54 Y. Williams Dep. 12-13.

55 Ms. Patterson was also an officer and board member of the African American Institute, a Section 501(c)(3) corporation that was also headquartered in the building located at 1612-1614 3rd Avenue North. **Exhibits 14 and 15**.

56 Patterson Dep. 9-10. Acknowledging the scope of work she performed for ATLIC while employed by HFCC, Ms. Patterson testified that she provided her services to ATLIC on a voluntary basis. Patterson Dep. 114. The Statement of Alleged Violation in this matter, however, to which Representative Hilliard has admitted, states that Ms. Patterson, along with Elizabeth Turner and Yolanda Williams, performed various services for corporations owned by Representative Hilliard and members of his family, for which services the payments from HFCC were also intended as compensation. **Exhibits 1 and 2**.

57 Patterson Dep. 135, 142, 144; Y. Williams Dep. 16.

58 On or about October 1, 1993, however, Ms. Patterson did receive a single disbursement of \$1320.53 for "payroll" from the Alabama Film and Entertainment Council, a tax-exempt corporation operated by members of Representative Hilliard's family. This entity is discussed in greater

detail later in this Report.

⁵⁹ Declaration of Toni Knight, Oct. 13, 2000 (**Exhibit 19**), 2000; Interview of Deborah Lumpkin (President of AMMC), July 19, 2000.

⁶⁰ Interview of Scott Harris, Property Manager, Aronov Realty Management, Inc., July 7, 2000; Declaration of Richard Pizitz, Vice President, Pizitz Realty Company, October 5, 2000 (**Exhibit 20**).

⁶¹ Interview of Scott Harris, Property Manager, Aronov Realty Management, Inc., July 7, 2000; Declaration of Toni Knight, Oct. 23, 2000 (**Exhibit 19**); Declaration of Richard Pizitz, Vice President, Pizitz Realty Company, October 5, 2000 (**Exhibit 20**).

⁶² **Exhibit 18.**

⁶³ See also Attachment A to this Report. Attachment A is a diagram of the flow of money between HFCC, American Trust Corporation, and Aronov Realty Management.

⁶⁴ Turner Dep. 30, 37, 39; **Exhibit 25.**

⁶⁵ Turner Dep. 46, 47. Ms. Turner did testify, however, that she gave permission to HFCC to continue to list her name as the campaign treasurer. She further testified, however, that it was her impression that her name would be used for campaign literature and advertising purposes. Turner Dep. 48.

⁶⁶ Even after the combined \$8,000 in disbursements by HFCC, AMMC continued to have difficulties meeting its rent obligations for the property it leased at 128 Lee Street in Montgomery, Alabama. The records obtained from the owner and manager of the property indicate that on or about October 23, 1997, John Hilliard (as "Manager" of AMMC) asked the lessor to relieve AMMC of its rent obligations under the lease, and stated the intention of AMMC to move out before the end of that month. Further, on or about November 4, 1997, an attorney engaged by Pizitz Realty Company (the lessor) threatened Representative Hilliard with a lawsuit unless he paid past due rental charges of \$5,080 and a collection fee of \$350. There was no mention of HFCC in any of the correspondence between the parties. **Exhibit 22.**

⁶⁷ Interview of Scott Harris, Property Manager, Aronov Realty Management (July 7, 2000); Interview of Larry McKeever, Vice President, Pizitz Realty Management; Declaration of Richard Pizitz, Vice President, Pizitz Realty Company, October 5, 2000 (**Exhibit 20**).

⁶⁸ As noted (*supra* p. 26), Alesia Smith is Representative Hilliard's daughter.

⁶⁹ The campaign did report to the Federal Election Commission a disbursement of \$34.40 on August 22, 1996, to Tara Sallee for "reimbursement office supplies," and reported a Montgomery address for Ms. Sallee. A corresponding entry in the campaign's handwritten ledger of disbursements, however, made no reference to Montgomery for this disbursement. Since the disbursement presented the possibility that Ms. Sallee might have some knowledge regarding an HFCC office in Montgomery and because she declined to consent to an informal voluntary interview with Investigative Subcommittee staff, Ms. Sallee was subpoenaed for testimony and was deposed under oath before the Investigative Subcommittee. Ms. Sallee testified that she was a former employee of Representative Hilliard in his Washington, D.C. office, and that her involvement with HFCC was very limited. Ms. Sallee had no specific recollection of the disbursement at issue, and had no knowledge as to the existence or non-existence of an HFCC office in Montgomery at any time. Deposition of Tara Sallee (September 12, 2000) at 21, 22.

⁷⁰ Interview of Deborah Lumpkin, President of AMMC, July 19, 2000; Declaration of Toni Knight, Oct. 13, 2000 (**Exhibit 19**).

⁷¹ *Id.*

⁷² Turner Dep. 140.

⁷³ Deposition of Alabama State Representative John Hilliard (May 8, 2000) at 182 (hereafter "J. Hilliard Dep."). John Hilliard testified as follows with respect to this subject:

Q Okay. According to the FEC filings by the Hilliard for Congress campaign, the Hilliard campaign made payments for rents in the amount of \$2,000 on September 20th, October 1st, November 7th and December 1996. Do you have any knowledge as to where the campaign office was located corresponding to rent payments?

A I don't remember. I don't have any knowledge.

Q Do you have any knowledge of a campaign office in Montgomery, Alabama, on that date in 1996?

A I don't recall.

Q You were working in Montgomery as a State Representative?

A And I was taking care of State business. I don't remember.

Q Did you have anything to do with Hilliard campaign operations in late '96?

A I have always [been] involved in volunteering in some type of way, but I don't remember.

⁷⁴ As noted (*supra* p. 29), it was John Hilliard who signed the four American Trust Corporation checks to Aronov Realty Management in late 1996 for rent of 128 Lee Street in Montgomery. **Exhibit 24.**

⁷⁵ J. Hilliard Dep. 182, 183.

⁷⁶ See **Exhibits 9 and 29**. The combined percentages of ownership of Hilliards & Company, Inc. (as reported by the entity in the cited exhibits) do not total precisely 100 percent.

⁷⁷ See State of Alabama Department of Insurance, *Report of Examination of the American Trust Life Insurance Company, Birmingham, Alabama, as of December 31, 1994*, at 3 (August 11, 1995) (**Exhibit 9**).

⁷⁸ J. Hilliard Dep. 34-35. John Hilliard testified that ATLIC did not sell life insurance.

⁷⁹ Alabama Code Section 27-29-1 (1975), as amended, defines the terms "control" and "person" for the purposes of the Insurance Holding Company Systems Act of the Insurance Code of the State of Alabama. The term "controlling" under the State statute means "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person[.]" The term "person" under the State statute means "[a]n individual, a corporation, a partnership, a limited partnership, an association, a joint-stock company, a trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert..." Counsel for the State of Alabama Department of Insurance further advised the Investigative Subcommittee that the term "ultimate" was not defined by statute, but rather under its common dictionary definition for purposes of interpreting the statute.

⁸⁰ See **Exhibit 28**. All the members of Representative Hilliard's family that are listed may not have served simultaneously as officers and/or members of the board of directors of ATLIC. Other individuals with separate ties to Representative Hilliard also served as officers and/or members of the board of directors of ATLIC, such as Elvira Williams (the district director of Representative Hilliard's congressional district office in Birmingham), Yolanda Williams (a former HFCC employee), and Elizabeth Turner (a former HFCC employee).

⁸¹ See State of Alabama Department of Insurance, *Report of Examination of the American Trust Life Insurance Company, Birmingham, Alabama, as of December 31, 1990*, at 14 (June 1991) (ATLIC official "in charge of operations" told State examiners "that in some instances [insurance] claims payments were delayed due to a 'cash flow problem' of the Company.") (**Exhibit 31** at 14).

⁸² In February 1996, in connection with an ongoing audit of ATLIC for the period of December 31, 1991, through December 31, 1994, the State of Alabama Department of Insurance issued a notice that its examiners "have found [ATLIC] to be insolvent as of December 31, 1994 by a capital impairment of \$370,626." Notice of Impairment, *In the Matter of American Trust Life Insurance Company*, Case No. C-96-44 N (Feb. 20, 1996) (**Exhibit 9**). This was not the first time the State insurance regulators were concerned about ATLIC's solvency. In a May 31, 1991 memorandum, an examiner stated

that ATLIC "has been operated in such a manner that, in my opinion, its present condition warrants immediate regulatory attention." **Exhibit 32.**

⁸³ See **Exhibit 28.**

⁸⁴ On different documents in possession of the Investigative Subcommittee, American Trust Communications Corporation was also referred to as American Trust Communication Corporation. These are the same entity.

⁸⁵ See **Exhibit 28.**

⁸⁶ On different documents in possession of the Investigative Subcommittee, American First Bonding Corporation was also referred to as American First Bail Bonding. These are the same entity.

⁸⁷ Allen Dep. 27.

⁸⁸ Other corporations owned by Hilliards and Company, Inc. were known to have operated in the same building as HFCC (1612-1614 3rd Avenue North in Birmingham, Alabama) during the period 1992 to 1996. Those corporations included American Trust Travel Agency, which was incorporated under the laws of the State of Alabama on or about January 23, 1987. At the time of its incorporation, Representative Hilliard was the President and Chairman of the Board of Directors of American Trust Travel Agency, John Hilliard was the Vice President and a director of this corporation, and Elvira Williams was Secretary/Treasurer and director; Allen Dep. 75 (Witness testified as to use of 1612-1614 3rd Avenue North by American Trust Travel Agency); Deposition of Merriam McClendon (March 16, 2000) at 34 (hereafter "McClendon Dep.") (Witness recalled activities of American Trust Travel Agency within the building.).

⁸⁹ See Statement of Hilliards and Company, Inc. on behalf of ATLIC to State of Alabama Department of Insurance, Jan. 11, 1995 (**Exhibit 28**). In this document, American First Bonding Corporation is reported to regulators to be a subsidiary of Hilliards & Company, Inc. Carol Allen, however, testified that she owned the company. Allen Dep. 27.

⁹⁰ This entity was described by the former executive director of AAI as the "brainchild" of Representative Hilliard. McClendon Dep. 38. "In other words, the idea, the concept for the Institute, to the best of my knowledge, came from Congressman Hilliard." *Id.*

⁹¹ The warranty deed was not recorded in the office of the Judge of Probate of Jefferson County, Alabama, until December 31, 1993.

⁹² The payment of \$1,000 from AAI to ATLIC for rent was made on or about July 7, 1993.

⁹³ The assumption of the SouthTrust and William F. Parker mortgage payments by ATLIC apparently began in 1987. According to a warranty deed, Representative Hilliard sold 1612-1614 3rd Avenue North to ATLIC in August 1987 for ten dollars (\$10.00) and "other good and valuable consideration." Following its purchase of the building from Representative Hilliard in 1987, ATLIC assumed responsibility for making payments on the two mortgages on the property held personally by Representative Hilliard. One monthly payment was for the mortgage of \$100,000 held by SouthTrust Bank, for which a monthly payment of \$1,150 was required. The other payment was for the mortgage of \$118,500 held by William Parker, for which the monthly mortgage payment was \$1,125. State insurance examiners reported that ATLIC paid \$34,305 in mortgage payments to SouthTrust Bank between November 19, 1987 and December 31, 1990, and had made \$20,250 in mortgage payments to William Parker by the end of 1990. **Exhibit 31** at 25, 26.

⁹⁴ A related document obtained by the Investigative Subcommittee was a lease agreement between ATLIC and AAI. This lease was also executed on or about September 29, 1993, and appeared to bind AAI to ATLIC in a very similar manner as in the documents memorializing AAI's purchase of 1612-1614 3rd Avenue North. Specifically, ATLIC agreed to lease 1612-1614 3rd Avenue North to AAI for 30 years in consideration for the payment by AAI to ATLIC of \$585,000, of which \$200,000 represented the balance of mortgages owed to SouthTrust Bank and William Parker by Representative Hilliard. The lease contained the provision that "[a] deed and a mortgage may be executed at anytime the parties desire." **Exhibit 30.** Rita Hall Patterson (Representative Hilliard's niece), who was Chairman of AAI, signed this lease document as Vice President of ATLIC. Yolanda Williams, who was working for ATLIC at the time (although compensated by HFCC) signed the lease document as

Executive Director of AAI. Ms. Patterson was questioned by the Investigative Subcommittee regarding the sale of the building from ATLIC to AAI. Ms. Patterson testified that "I can't recall," "I do not remember," or words to that effect in response to questions regarding who decided to purchase the building on behalf of AAI or to sell it on behalf of ATLIC, or how the sales price of \$585,000 was determined. Patterson Dep. 76, 81, 83. Ms. Patterson was also questioned as to her role in this transaction in light of her fiduciary obligations to both AAI and ATLIC (Patterson Dep. 78-79):

Q What role did you play for the American Trust Life Insurance Company regarding the sale of 1612-1614 Third Avenue North?

A I can't recall that.

Q Might you have played a role?

A Pardon me?

Q Might you have played a role?

A I just cannot remember.

Q Now, you -- at the time of the sale by the African American Institute, you were vice president of the American Trust Life Insurance Company; is that correct?

A Yes.

Q And you were also chairman of the board of the entity purchasing the building; is that correct?

A Yes. I think at the time, September '93.

Q Given your position with both entities, were you comfortable that you were fulfilling your fiduciary responsibility to these corporations?

A Yes.

Q How did you reach that determination?

A I didn't see a conflict.

Q Well, did you make any effort to ascertain the fair market value of this building?

A I can't recall. I may have.

Q Well, how would you have done that?

A I can't remember.

Q Now, where -- were there negotiations regarding the purchase price of this building?

A I can't remember.

Q Did you ever offer to pay less than \$585,000 for this building?

A I don't remember.

⁹⁵ Sworn testimony of individuals involved in the sales transaction, as evidenced by their names and signatures on the sales and mortgage documents, yielded little insight as to how the sales price of the building (\$585,000) was derived at or negotiated. Each of these individuals - Carol Allen, Yolanda Williams, Cheryl Hilliard, John Hilliard, Elvira Williams, and Rita Hall Patterson - averred that they did not know and/or did not remember such details. Nor was a cogent explanation provided by these witnesses as to why any of these officials of AAI and/or ATLIC believed the purchase of the building at this price was in the best interests of AAI and/or ATLIC. Allen Dep. 55, 56, 62; Patterson Dep. 72, 73, 74, 76; Deposition of Cheryl Hilliard (February 17,

2000) at 89-90 (hereafter "C. Hilliard Dep."); Y. Williams Dep. 74, 77; E. Williams Dep. 191; J. Hilliard Dep. 133, 135. At one point in her deposition, Ms. Patterson testified that AAI purchased the building from ATLIC for "investment purposes." Patterson Dep. 94. Ms. Patterson, however, was not able to provide any details as to events leading to this "investment" or as to how the purchase of the building at the purchase price of \$585,000 was a sound and legitimate investment for AAI. Patterson Dep. 83, 84. Yolanda Williams testified that while she typed the mortgage document at the direction of John Hilliard, she recalled no other involvement with this transaction: "I was instructed to type this document up. Those were my instructions. Those are the instructions that I performed. The negotiations, the considerations, the decision, whatever that was done before it got to me, I have no recollection. I do not know. I did what was asked of me to do. I typed the document and I signed it as Executive Director in trust that John Hilliard knew what he was telling me to do when he asked me to type up this document." Y. Williams Dep. 79.

⁹⁶ Merriam McClendon, who served as Executive Director of AAI, testified that AAI's debt obligation regarding the SouthTrust Bank and William Parker mortgages alone were financially burdensome for AAI. McClendon Dep. 60-61, 66, 87.

⁹⁷ See Attachment B and Exhibit 34. Attachment B to this Report is a diagram of the flow of certain monies between HFCC, AAI, and ATLIC. Exhibit 34 includes checks that were used to accomplish the transfer of funds between HFCC and ATLIC, using AAI as a conduit.

⁹⁸ To the extent that, as a consequence of the sale, AAI fulfilled Representative Hilliard's personal obligation to pay mortgages he owed to SouthTrust Bank and William Parker, Representative Hilliard was also in a more favorable position following the sale of the building to AAI.

⁹⁹ On or about February 13, 1995, HFCC issued a check to AAI in the amount of \$3,000 for two months rent. The payment of this check was not accompanied by a \$3,000 check from AAI to ATLIC. Rather, the \$3,000 check from HFCC was deposited directly into the bank account of American Trust Corporation. Exhibit 36. This check was signed by Elizabeth Turner and endorsed by her to the American Trust Corporation and deposited by her into the account of that corporation. When asked why she endorsed and deposited this \$3,000 rent check issued to AAI into the account of American Trust Corporation, Ms. Turner testified that she was "instructed to do so" by Representative Hilliard, and that she did not know why Representative Hilliard instructed her to take these actions. Turner Dep. 124.

¹⁰⁰ With respect to the sale of the building back to ATLIC for \$1.00 and relief from paying two mortgages owed by Representative Hilliard, the Executive Director of AAI at the time of the sale testified that the monthly amount paid by AAI for mortgages each month could "be used for programs of the Institute," that AAI was "struggling to survive" and that AAI had a "debt burden" due to the mortgages that in her view, was not in the interests of the entity. McClendon Dep. 86-87.

¹⁰¹ Carol Allen, the President and Chairman of American First Bonding Corporation, testified "I don't remember" when asked under oath why this HFCC check was deposited into her company's account. Allen Dep. 65. She further testified that she did not remember whether her company ever had a lease with HFCC or with American Trust Corporation, and that she did not recall whether her company ever owned the building located at 1612-1614 3rd Avenue North in Birmingham, Alabama. *Id.* Rita Hall Patterson, who wrote the HFCC check in question (Exhibit 37), also testified that she "cannot remember" why this check was deposited into the account of American First Bonding Corporation. Patterson Dep. 155. She also testified that she could not recall any dealings between HFCC and that corporation. *Id.* The record also indicated that on or about March 14, 1995, Rita Hall Patterson issued a check from the account of AAI payable to American First Bonding Corporation in the amount of \$1,500, the purpose of which Rita Hall Patterson testified she could not remember. Patterson Dep. 150.

¹⁰² The record indicates that after July 1996, it was not until December 1997 that HFCC made expenditures to lease office space in Birmingham, Alabama. The 1997 lease was for office space within a building located at 1703 4th Avenue North in Birmingham, a building that was not owned by Representative Hilliard or any member of his family. HFCC paid \$300 per month for the use of the space leased on 4th Avenue North.

¹⁰³ During its investigation, the Investigative Subcommittee obtained copies of documents purporting to be minutes of board meetings of ATLIC. Some of the documents discuss the sale of 1612-1614 3rd Avenue North to AAI, as well as discuss the sale by ATLIC of the mortgage owed by AAI. See Exhibit 39. Two attendees of such meetings (as reflected in the minutes) that testified before the Investigative Subcommittee were not able to recall attending any specific meeting of the board of ATLIC or of participating in any such meetings. C. Hilliard Dep. 94 (Cheryl Hilliard testified that she did not "recall" attending a board meeting which minutes reflect her attendance and participation.); Allen Dep. 43-44 (Carol Allen testified that she did not recall attending a

meeting of the Board of Directors of ATLIC where minutes recorded her attendance and participation.). Handwritten drafts of minutes of meetings were sometimes prepared by Representative Hilliard. E. Williams Dep. 220-228; **Exhibit 39**.

104 Interview of Willie A. Casey, December 7, 1999.

105 Deposition of Lonnie Tidwell (February 10, 2000) at 48, 49 (hereafter "Tidwell Dep."). Even typographical errors were copied from Mr. Tidwell's appraisal onto the appraisal of Mr. Casey, leading Mr. Tidwell to conclude from his examination of several pages of the report, that the appraisal prepared by him in 1987 appeared to have been "copied verbatim." Tidwell Dep. 54.

106 At the conclusion of this protest process, the Jefferson County Board of Equalization and Adjustments Board determined the assessed market value of 1612-1614 3rd Avenue North for taxation purposes was \$189,130 for each of the years 1989 through 1993, and \$185,230 for 1994. For 1995 and 1996, the assessed market value of 1612-1614 3rd Avenue North by the Board continued to be \$185,230. Prior to the protests, the assessed market value of this property varied substantially during the 1990's, with an assessed market value as high as \$420,050 in 1993. Board records indicated that this high assessment was based substantially on anticipated renovations to the property that the Board ultimately learned did not occur. Indeed, an inspection of the building by a Board assessor in June 1995 discovered that only 25% of the building was being used as an office and that numerous repairs and renovations to the property were needed. The assessor noted cracks in walls, peeling paint, evidence of water and moisture, disconnected and unusable plumbing on the second floor, no central heat on the first floor of the building, and that the first floor air conditioning unit was not working, among other problems.

107 **Exhibit 50** ("Mr. Hilliard does not have any interest or position in the African American Institute" and he "can not and will not speak for the African American Institute."); C. Hilliard Dep. 23 (Representative Hilliard's counsel, who also represented the deponent (Cheryl Hilliard), said he would "stipulate for the record that AAI was an entity with which the Congressman had absolutely no involvement."); C. Hilliard Dep. 23 (Representative Hilliard's counsel stated with respect to his previous assertion that Representative Hilliard had no involvement with AAI, that "[i]t's a fact. It's not a matter of belief. It is a fact.>").

108 Report of T. Julian Skinner, MAI, CRE, June 9, 2000 (**Exhibit 47**).

109 Report of Steve Graham, MAI, CRE, May 23, 2000 (**Exhibit 48**). In addition, in connection with collection efforts on the mortgage owed by Representative Hilliard, an appraisal report of the property was also completed in 1995 by an individual engaged by SouthTrust Bank. A copy of this report was obtained during this investigation. According to this appraisal report, fair market value of 1612-1614 3rd Avenue North in Birmingham as of November 21, 1995 was \$210,000.

110 Conclusions as to use of space within 1612-1614 3rd Avenue North in Birmingham, Alabama, were drawn from many sources, including the testimony of witnesses who worked in the building during the relevant time period. Patterson Dep. 17, 57, 58; McClendon Dep. 25, 30-31, 41, 73, 107, 109, 114; Allen Dep. 11, 49; C. Hilliard Dep. 58, 133; Turner Dep. 38, 39, 51-61; E. Williams Dep. 35-36, 42, 138, 153; Y. Williams Dep. 15, 54, 58, 72; J. Hilliard Dep. 29, 71, 84. Elizabeth Turner testified that Representative Hilliard made the decisions for HFCC regarding the amount of rent that should be paid by that entity for office space. Turner Dep. 142-143. Elvira Williams also testified that increases in rent would not have occurred without the approval of Representative Hilliard. E. Williams Dep. 169.

111 The lease of space to Williamson & Harrell Photographers was apparently disclosed to SouthTrust Bank in a letter written on behalf of Representative Hilliard. The letter was apparently in response to collection efforts undertaken by SouthTrust Bank against Representative Hilliard with respect to the mortgage owed by Representative Hilliard to that bank. **Exhibit 54**. The fact of the regular payment of rent by HFCC for use of 1612-1614 3rd Avenue North was not disclosed to SouthTrust Bank in the letter. *Id.*

112 Turner Dep. 124.

113 Other expenditures of concern to the Investigative Subcommittee included certain payments by Hilliard-owned corporations to AmSouth Bank and National Bank of Commerce. From the period approximately June 4, 1993 through approximately August 1, 1996, American Trust Corporation, American Trust Communications Corporation, and American First Bonding Corporation collectively made at least 30 expenditures totaling over \$29,000 to AmSouth Bank and to National Bank of Commerce. Notations made on some of the corporate checks referenced Earl Hilliard, and may indicate that the payments were in satisfaction of a personal obligation of Representative

Hilliard to these banks. **Exhibit 60** (examples of checks used to make the referenced expenditures to AmSouth Bank and National Bank of Commerce). Indeed, in his financial disclosure statements, Representative Hilliard reported liabilities owed to AmSouth Bank and National Bank of Commerce; although no payments by corporations owned or controlled by Representative Hilliard and members of his family to AmSouth Bank or National Bank of Commerce were disclosed as income. **Exhibit 55**. If corporations owned by Representative Hilliard and his family in fact made expenditures towards personal obligations of Representative Hilliard or members of his family, HFCC payments of rent in excess of fair market value may have subsidized these expenditures.

¹¹⁴ Black's Law Dictionary 109 (6th ed. 1990) (A transaction is generally considered to be at arms length if it was entered into in good faith in the ordinary course of business by parties with independent interests.); FEC Advisory Opinion 1996-12 (citing the aforementioned definition of "arms length"); Tidwell Dep. 24-25 (Real estate appraiser testified that a transaction involving parties related in some way, even if the relationship stemmed from a business or partnership, would not be considered an arm's length transaction. He also testified that an arm's length transaction would require parties to be unrelated, "neither having any interest in the other party, both acting in their own self-interest."). See also **Exhibit 47** at 7; **Exhibit 48** at 14.

¹¹⁵ Several witnesses testified as to the use and occupancy of office space within 1612-1614 3rd Avenue North in Birmingham, Alabama. Allen Dep. 11, 49; C. Hilliard Dep. 58, 133; J. Hilliard Dep. 29, 71, 84; McClendon Dep. 25, 30-31, 41, 73, 107, 109, 114; Patterson Dep. 17, 57, 58; Turner Dep. 38, 39, 51-61; E. Williams Dep. 36, 42, 138, 153; Y. Williams Dep. 15, 54, 58, 72.

¹¹⁶ In two cases, the total amount applied to the two Alabama Power Company accounts by the utility differed by several cents from the amount actually paid by HFCC.

¹¹⁷ Although not an allegation contained in the Statement of Alleged Violation, the Investigative Subcommittee notes that during the period approximately October 5, 1993 until March 21, 1994, HFCC issued four checks totaling \$1,592.02 either to Cash or to U.S. Sprint for the purposes of paying amounts owed to that utility for telephone service. Prior to that date, payments for this account at U.S. Sprint were made by ATLIC. Documents obtained by the Investigative Subcommittee did not indicate that occupants of 1612-1614 3rd Avenue North other than HFCC made payments to U.S. Sprint during the period October 5, 1993 through December 31, 1994.

¹¹⁸ The evidence in the record also indicated payments to utilities by HFCC after December 1994. For example, on or about March 19, 1996, HFCC made a payment of \$863.52 to BellSouth. Due in large measure to inadequate records produced by corporations owned by Representative Hilliard and members of his family, the Investigative Subcommittee was not able to discern how occupants of the building utilized by HFCC shared utility costs after December 1994. It appeared from the records obtained by the Investigative Subcommittee, that for significant lengths of time, debts to various utility companies sometimes went unpaid.

¹¹⁹ The amendment dated December 1, 1997 stated that the 1997 financial disclosure statement of Representative Hilliard was being amended; however Representative Hilliard's statement for 1997 was not due, and was not filed, until May 1998. See **Exhibit 55**.

¹²⁰ Other letters were exchanged between the Investigative Subcommittee and the Respondent regarding the Investigative Subcommittee's request for tax filings. One of the purported reasons for the delay in complying with the Investigative Subcommittee's request was that Representative Hilliard had not obtained approval from the Boards of Directors of the corporations, which, as shown above (*supra* pp. 36-38), consisted entirely of members of his family. **Exhibit 69**. Representative Hilliard's counsel also objected to complying with the request on the erroneous basis that public disclosure by the Investigative Subcommittee of information contained in tax returns provided to the Investigative Subcommittee by his client or obtained with the consent of his client would violate federal law.

¹²¹ Copies of 1994 and 1995 federal tax returns for the American Trust Corporation were among the documents furnished to the Investigative Subcommittee by Representative Hilliard on November 17, 1999 pursuant to subpoena. The tax returns furnished on November 17, 1999 were signed by John Hilliard, and the data on those returns is identical to the returns later obtained by the Investigative Subcommittee from the Internal Revenue Service and the Alabama Department of Revenue. The 1994 tax return supplied on November 17, 1999 was dated April 15, 1996, and the 1995 tax return was undated. Based on the receipt of documents from the Internal Revenue Service and the Alabama Department of Revenue, however, the returns furnished to the Investigative Subcommittee by Representative Hilliard on November 17, 1999 apparently were not filed with the Internal Revenue Service as of that date. The 1994 tax return that was on file with the Internal Revenue Service was signed by Representative Hilliard (not John Hilliard) and was dated March 21, 2000. The 1995 tax return on file with the Internal Revenue Service also was signed by

Representative Hilliard and was dated September 11, 2000. In submitting the copies of the 1994 and 1995 returns to the Investigative Subcommittee on November 17, 1999, it was not disclosed to the Investigative Subcommittee by the Respondent that those returns apparently were not copies of tax returns on file with the Internal Revenue Service.

¹²² Similarly, the 1998 federal income tax return of American Trust Corporation reports a cash balance of \$(4,993) for that year, but a review of that corporation's bank records indicated that it apparently had a cash balance of \$(271.37). This overstatement raises additional questions about the reliability of information reported on this corporation's tax returns.

¹²³ According to a financial statement of American Trust Corporation that was also prepared in connection with the lease of 128 Lee Street in Montgomery, Alabama by the American Management and Marketing Corporation, as of on or about March 15, 1996, American Trust Corporation had a value of \$341,300, which included \$250,000 in "fixed assets," \$20,000 in "inventory -furniture & equipment," \$93,000 in "account/trade receivable," and \$2,300 in "current assets -cash." American Trust Corporation also listed unspecified "current," "long term," and "other" liabilities totaling \$24,000. **Exhibit 21.** The information in the financial statement was not supported by any data obtained from bank records, tax returns, or other information supplied by Representative Hilliard. Accordingly, the Investigative Subcommittee concluded that the aforementioned financial statement was not a reliable basis on which to draw a conclusion as to whether Representative Hilliard should have been required to report Hilliards & Company, Inc. on his financial disclosure statements.

¹²⁴ The minutes reproduced as **Exhibit 71** to this Report were not signed.

¹²⁵ **Exhibit 72** to this Report.

¹²⁶ The reference is to **Exhibit 73** to this Report.

¹²⁷ **Exhibit 73** to this Report.

¹²⁸ J. Hilliard Dep. 193-205.

¹²⁹ In response to the subpoena for documents relating to the assets and liabilities of his corporations, Representative Hilliard also submitted a copy of a letter faxed to his counsel on November 15, 1999 from J.D. Bayles. In the letter, Mrs. Bayles identified herself as a "part-time accountant for American Trust Life Insurance Company, Inc. in March 1982 thru December 1994." **Exhibit 74.** She further stated that it was her job to prepare quarterly and annual statements to the State of Alabama Department of Insurance, and that "[a]ccording to copies of the working papers, American Trust Life Insurance Company's net operating income was negative during the periods of my employment. The last report prepared during my employment was for the period ending September 30, 1994. I resigned in April 1995." Staff for the Investigative Subcommittee interviewed Mrs. Bayles by telephone and she stated that it was her recollection that the company was not profitable. She also said that she was not a certified public accountant, but had bookkeeping experience. Subsequent to this interview, Representative Hilliard engaged his counsel, Ralph L. Lotkin, to represent Mrs. Bayles in her capacity as a witness in this matter.

¹³⁰ John Hilliard testified that he did not remember what happened to the proceeds of this \$120,000 certificate of deposit. J. Hilliard Dep. 187-188. His testimony on this subject is set forth below:

Q Mr. Hilliard, are you familiar with a certificate of deposit roughly in the amount of \$120,000 that the life insurance company had obtained in the late 1980s?

A I remember that, yes.

Q Okay. What do you remember about that?

A I think that was the sale of a building, I am not sure, on 3rd Avenue, that maybe they owned at the time -- 8th Avenue.

Q What happened to the CD?

A I don't remember what happened to it.

Q Was it liquidated?

A I don't remember.

Q Do you know what happened to the proceeds from the CD?

A No, I don't. At the time all of this stuff -- well, that, what year was that?

Q My understanding is that the CD was obtained by the life insurance company in approximately 1988, but it was the subject, as you may recall, of communications between the State insurance regulators and the life insurance company where the regulators continued to try to find out what happened to the disposition of the CD as it might affect the asset ratio of the life insurance company.

A Okay.

Q Do you remember what happened to the CD?

A I don't remember. I don't recall.

Q It is a lot of money, \$120,000.

A If you say so.

131 **Exhibit 78.**

132 The Investigative Subcommittee notes that a personal financial balance sheet of Representative Hilliard dated January 1, 1994, lists Greater Birmingham Golf Association, Inc. stock as an asset with a value of \$12,500. **Exhibit 28.** The Investigative Subcommittee was not able to ascertain the basis on which Representative Hilliard valued this asset at that time. It was apparent from the records of the corporation's accountants, however, that this valuation probably was not an accurate assessment of the value of Representative Hilliard's share of the entity.

133 Toni Motley is presently treasurer of HFCC. At the time of incorporation of the Alabama Film and Entertainment Council in 1993, Ms. Motley was assistant treasurer of HFCC.

134 E. Williams Dep. 238, 239. John Hilliard also used this post office box for his personal mail. *Id.*

135 This disbursement was used to open the bank account of the Alabama Film and Entertainment Council. **Exhibit 81.**

136 Subpoenas for records were issued to every person known to have served on the board of directors of both the African American Institute (including its successor entity, the National African American Center), and the Alabama Film and Entertainment Council. Persons subpoenaed for documents related to this entity included Roderick J. Smith, Elvira Williams, Mary Hilliard, Cheryl Hilliard, Toni Motley, and Representative Hilliard. The persons subpoenaed asserted that they did not possess any records relating to the lease, use, or occupancy of any premises by the Alabama Film and Entertainment Council. See **Exhibits 26 and 83.**

137 Patterson Dep. 41.

138 See **Exhibits 47 and 48.**

139 The Subcommittee subpoenaed records relating to AAI activities from each member of its board of directors. Only Elvira Williams produced any records pursuant to her subpoena, but these very limited records did not shed any light on why that entity made payments on Representative Hilliard's Citicorp Diner's Club account. Rita Hall Patterson testified that she did not know why AAI would make a payment on Representative Hilliard's Citicorp Diners Club account or, for that matter, on the American Express account of Mary Hilliard. Further, she was not aware of any expenditures made personally by Representative Hilliard on behalf of AAI. Patterson Dep. 149, 150.

¹⁴⁰ **Exhibit 50** ("Mr. Hilliard does not have any interest or position in the African American Institute" and he "can not and will not speak for the African American Institute."); C. Hilliard Dep. 23 (Representative Hilliard's counsel, who also represented the deponent said he would "stipulate for the record that AAI was an entity with which the Congressman had absolutely no involvement.").

¹⁴¹ This letter (**Exhibit 88**) to Representative Hilliard from the Committee on Standards of Official Conduct cites Committee Rule 19, which provides for Committee-initiated inquiries. Committee Rule 19(a) states that

[T]he Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his or her duties or the discharge of his or her responsibilities. The Chairman and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer or employee unless and until an investigative subcommittee has been established.

¹⁴² Committee Rule 19(d) provides that "[a]n inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress."

¹⁴³ Clause 2(a)(2) of House Rule 11 provides that "[e]ach committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year." The Committee published its rules in the *Congressional Record* on May 18, 1999.

¹⁴⁴ The August 10, 1999 letter attached to this Report as **Exhibit 94** refers to a proposal made on behalf of Representative Hilliard to resolve this matter at the informal inquiry stage. The proposal was submitted during a meeting between Representative Hilliard's counsel and Committee counsel on July 30, 1999. As explained in the letter, however, the proposal was rejected by the Committee because the Committee lacked a sufficient factual basis to resolve the pending issues. **Exhibit 94**.

¹⁴⁵ Mr. Lotkin's representation of Elizabeth Turner was terminated prior to her appearance before the Investigative Subcommittee on March 30, 2000.

¹⁴⁶ The letters dated January 14, 2000 and January 19, 2000 that are attached to this Report as **Exhibit 98** state that Representative Hilliard "re-engaged" Ralph L. Lotkin to represent him in this matter. By letter dated December 8, 1999, Representative Hilliard advised the Investigative Subcommittee that he had terminated Mr. Lotkin as his counsel.

¹⁴⁷ The full Committee on Standards of Official Conduct voted unanimously at the commencement of its meeting to permit Representatives Hulshof and Clyburn to attend.

DAUGHTERS OF VICTORY AND EXCELLENCE ADVISORY COUNCIL

April 14, 2008

7:30 PM.

AGENDA

Opening

Scripture Ephesians 2:1-10

Prayer

Mission Statement

New Business

Financial Report

Promotions for DOVE Ministry

Upcoming events

Theme for 2008 – “Transformed: An Extreme Makeover” *Do not conform any longer to the pattern of this world, but be transformed by the renewing of your mind. Then you will be able to test and approve what God's will is—his good, pleasing and perfect will. (Romans 12:2)*

1As for you, you were dead in your transgressions and sins, 2in which you used to live when you followed the ways of this world and of the ruler of the kingdom of the air, the spirit who is now at work in those who are disobedient. 3All of us also lived among them at one time, gratifying the cravings of our sinful nature^[a] and following its desires and thoughts. Like the rest, we were by nature objects of wrath. 4But because of his great love for us, God, who is rich in mercy, 5made us alive with Christ even when we were dead in transgressions—it is by grace you have been saved. 6And God raised us up with Christ and seated us with him in the heavenly realms in Christ Jesus, 7in order that in the coming ages he might show the incomparable riches of his grace, expressed in his kindness to us in Christ Jesus. 8For it is by grace you have been saved, through faith—and this not from yourselves, it is the gift of God— 9not by works, so that no one can boast. 10For we are